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Rules, Regulations, Orders

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

SUBCHAPTER C—MISCELLANEOUS EXCISE TAXES

[T.D. 5081]

PART 137—CAPITAL STOCK TAX

Regulations 64 Amended

In order to conform Regulations 64,[1] approved February 4, 1939 [Part 137, Title 26, Code of Federal Regulations, 1939 Sup.], as made applicable to the Internal Revenue Code by Treasury Decision 4885,[2] approved February 11, 1939 [Chapter I, note, Title 26, Code of Federal Regulations, 1939 Sup.], and as amended by Treasury Decision 4912,[3] approved July 24, 1939, and Treasury Decision 4983,[4] approved July 16, 1940, to the provisions of sections 202 (i), 205 and 301 of the Revenue Act of 1941 (Public Law 250, 77th Congress), approved September 20, 1941, such regulations are amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 137.31 (*Returns; in general*) [article 31] the following:

SECTION 301 (c) OF THE REVENUE ACT OF 1941

(c) *Returns for 1941.* Section 1203 (b) (2) of the Internal Revenue Code (relating to extensions of time for filing capital-stock tax returns) is amended by inserting at the end thereof the following: "With respect to the year ending June 30, 1941, the extension may be for not more than ninety days."

PAR. 2. The first sentence of § 137.36 (b) [Article 36 (b)] is amended by striking out the period at the end and by inserting in lieu thereof the following:

§137.36 *Place and time for filing return.*

* * * * *

(b) *Extensions of time.* * * *, except that for the year ending June 30, 1941, the extension of the time for filing returns may be for not more than 90 days.

PAR. 3. There is inserted immediately preceding § 137.41 (*Nature and rate of tax*) [Article 41] the following:

SECTION 202 (i), TITLE II, OF THE REVENUE ACT OF 1941

(i) *Adjusted declared value.* (1) Section 1202 (b) (1) (C) of the Internal Revenue Code is amended to read as follows:

(C) its net income, computed without the deduction of the tax imposed by Subchapter E of Chapter 2,

(2) Section 1202 (b) (1) (iii) is amended to read as follows:

(iii) the excess of the deductions allowable for income tax purposes (not including the deduction for the tax imposed by Subchapter E of Chapter 2) over its gross income.

SECTION 205, TITLE II, OF THE REVENUE ACT OF 1941

The amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1940.

SECTION 301 OF THE REVENUE ACT OF 1941

(a) *Increase in rate of tax.* Section 1200 (a) and (b) of the Internal Revenue Code (relating to rate of capital stock tax) is amended by striking out "$1" and inserting in lieu thereof "$1.25".

(b) *Defense tax rate.* Section 1200 (c) of the Internal Revenue Code is repealed.

* * * * *

(d) *Effective date.* This section shall be effective only with respect to the year ending June 30, 1941, and succeeding years.

PAR. 4. The fourth sentence of § 137.41 [Article 41], as amended by Treasury Decision 4983, is further amended to read as follows:

§ 137.41 *Nature and rate of tax.* * * * The tax for each full $1,000 of the adjusted declared value of the capital stock is imposed at the rate of $1 for the taxable years ending June 30, 1938, and June 30, 1939, $1.10 for the taxable year ending June 30, 1940, and $1.25 for the taxable year ending June 30, 1941, and years subsequent thereto.

PAR. 5. The second sentence of paragraph (c) of § 137.46 [Article 46] is

[1] 4 F.R. 523.
[2] 4 F.R. 879.
[3] 4 F.R. 3432.
[4] 5 F.R. 2614.

CONTENTS

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

CONTENTS—Continued

amended by striking out the period at the end and by inserting in lieu thereof the following:

§ 137.46 *Adjusted value.*

* * * * *

(c) * * *, except that, for the taxable year ending June 30, 1942, and subsequent adjustment years, the "net income" for this addition shall be computed without the deduction of the tax imposed by Subchapter E of Chapter 2 of the Internal Revenue Code.

PAR. 6. Paragraph (e) (3) of § 137.46 [Article 46] is amended by striking out the period at the end and by inserting in lieu thereof the following:

* * *, except that, for the taxable year ending June 30, 1942, and subsequent adjustment years, the deduction of the tax imposed by Subchapter E of Chapter 2 of the Internal Revenue Code shall not be included.

PAR. 7. There is inserted immediately preceding § 137.61 (*Nature and rate of tax*) [Article 61] the following:

SECTION 301 OF THE REVENUE ACT OF 1941

(a) *Increase in rate of tax.* Section 1200 (a) and (b) of the Internal Revenue Code (relating to rate of capital stock tax) is amended by striking out "$1" and inserting in lieu thereof "$1.25".

(b) *Defense tax rate.* Section 1200 (c) of the Internal Revenue Code is repealed.

* * * * *

(d) *Effective date.* This section shall be effective only with respect to the year ending June 30, 1941, and succeeding years.

PAR. 8. The second sentence of § 137.61 [Article 61], as amended by Treasury Decision 4983, is further amended to read as follows:

§ 137.61 *Nature and rate of tax.* * * * The tax for each full $1,000 of the adjusted declared value of capital employed by a foreign corporation in the transaction of business in the United States is imposed at the rate of $1.00 for the taxable years ending June 30, 1938, and June 30, 1939, $1.10 for the taxable year ending June 30, 1940, and $1.25 for the taxable year ending June 30, 1941, and years subsequent thereto.

(This Treasury decision is issued under the authority contained in sections 202 (i), 205 and 301 of the Revenue Act of 1941 (Public Law 250, 77th Congress) and section 3791 of the Internal Revenue Code (53 Stat. 467; 26 U.S.C., Sup. V, 3791).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: October 3, 1941.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 4–7466; Filed, October 6, 1941; 3:32 p. m.]

[T. D. 5084]

PART 176—DRAWBACK ON DISTILLED SPIRITS AND WINES [1]

Amending Regulations 28

1. The Act approved July 22, 1941 (Public Law 187, 77th Congress), provides, in part, as follows:

That subsection (c) of section 3341, Internal Revenue Code, be amended to read as follows:

(c) *Draw-back of tax paid in the United States.* All provisions of law for the allowance of draw-back of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to the Philippine Islands.

SEC. 2. That section 3351, Internal Revenue Code, be amended by adding at the end thereof a new subsection to read as follows:

(c) *Drawback of tax paid in the United States.* All provisions of law for the allowance of draw-back of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to the Virgin Islands.

SEC. 3. That subsection (c) of section 3361, Internal Revenue Code, be amended to read as follows:

(c) *Draw-back of tax paid in the United States.* All provisions of law for the allowance of draw-back of internal revenue tax on articles exported from the United States are, so far as applicable, extended to like articles upon which an internal revenue tax has been paid when shipped from the United States to Puerto Rico, Guam, or American Samoa.

* * * * *

2. Pursuant to the foregoing provisions of law and sections 2887, as amended, 3176 and 3179, Internal Revenue Code, and sections 309 (a), (b), (c), (d), and 313 (d), (i) of the Tariff Act of 1930, as amended (19 U.S.C., Sup. V, 1309 (a), (b), (c), (d) and 1313 (d) (i)), Regulations 28 are amended as hereinafter set forth:

3. Sections 176.16, 176.17, 176.23 and 176.24 are amended by adding new paragraphs thereto, as follows:

[1] 5 F.R. 3478.

§ 176.16 *Bottling of distilled spirits or wines without rectification by rectifiers and proprietors of tax-paid bottling houses.*

* * * * *

(e) *Tax-paid certificate.* Upon receipt of the Form 230, the district supervisor will prepare Form 1600, "Certificate of District Supervisor of Alcohol Tax Unit of Tax-Paid Spirits or Wines Bottled Especially for Export", using as a basis therefor the dumping and bottling record Form 230. He will then forward the Form 1600 to the Commissioner with a copy of the Form 230. The Forms 1600 and 230 will be retained by the Commissioner for use in connection with the examination and certification of the claim for drawback on such spirits or wines.

(f) *Transfer and storage pending exportation.* Spirits or wines bottled especially for export under this section may be transferred from the export storage room of the bottler, pursuant to Form 1656, "Application for Transfer of Distilled Spirits or Wines Bottled Especially for Export", to another export storage room at the port of exportation, for storage pending release for direct exportation or use as supplies on vessels or aircraft. Such export storage room at the port of exportation may be established by the proprietor of a tax-paid bottling house or rectifier, under the provisions of Regulations 11 or 15, whether or not the proprietor of the tax-paid bottling house or rectifier intends to bottle distilled spirits or wines especially for export. Form 1656 will be executed, in quadruplicate (or quintuplicate, if the spirits are to be transferred to another supervisory district), by the bottler or exporter, after appropriate arrangements have been made by him with the proprietor of the export storage room at the port of exportation for such storage. All copies of the form will then be submitted to the district supervisor, or designated officer, for approval. Upon approval thereof, the spirits or wines may be released by the government officer for transfer. The officer will retain one copy for his files, furnish one copy to the bottler, forward one copy to the district supervisor, and forward one copy to the consignee. If the spirits or wines are transferred to another district, he will forward one copy to the district supervisor of such district. The spirits or wines so transferred and stored will be entered for drawback and marked and released for exportation, etc., in accordance with the procedure prescribed by §§ 176.35 to 176.38, inclusive.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 10 U.S.C., Sup., 1309 (a), (b), (c), (d).)

§ 176.17 *Bottling of wines by winemakers or proprietors of bonded storeroom.*

* * * * *

(e) *Tax-paid certificate.* Upon receipt of the Form 230, the district supervisor will prepare and forward to the Commissioner Form 1600, and a copy of the Form 230, in accordance with the procedure prescribed by § 176.16 (e).

(f) *Transfer and storage pending exportation.* Wines bottled especially for export under this section may be transferred pursuant to Form 1656 from the export storage room of the bottler, to another export storage room at the port of exportation, for storage pending release for direct exportation or use as supplies on vessels or aircraft, in accordance with the procedure set forth in § 176.16 (f). Such export storage room at the port of exportation may be established by a winemaker or the proprietor of a bonded storeroom under § 176.15 of the regulations in this part, or by the proprietor of a tax-paid bottling house, or rectifier, under the provisions of Regulations 11 or 15, whether or not the winemaker or the proprietor of a bonded storeroom intends to bottle wines especially for export, or the proprietor of the tax-paid bottling house or rectifier intends to bottle spirits or wines especially for export.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U. S. C., Sup., 1309 (a), (b), (c), (d).

§ 176.23 *Bottling by person other than rectifier.*

* * * * *

(e) *Action by district supervisor.* Upon receipt of Form 230 from the bottler in such cases, the district supervisor will forward a copy of such form to the Commissioner.

(f) *Transfer and storage pending exportation.* Spirits and wines bottled especially for export under this section may be transferred pursuant to Form 1656 from the export storage room of the bottler to another export storage room at the port of exportation, for storage pending release for direct exportation or use as supplies on vessels or aircraft, in accordance with the procedure prescribed by § 176.16 (f). Such export storage room at the port of exportation may be established by the proprietor of a tax-paid bottling house or rectifier, under the provisions of Regulations 11 or 15, whether or not the proprietor of the tax-paid bottling house or rectifier intends to bottle distilled spirits or wines especially for export.

(Sec. 3179 (b), I. R. C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup., 1309 (a), (b), (c), (d).)

§ 176.24 *Separate bottling required.*

* * * * *

(a) *Claim required on Form 1582.* Where distilled spirits and wines are mixed in the process of rectification, for bottling especially for export with benefit of drawback, claim for drawback of the distilled spirits tax, the rectification tax, and the tax under section 3030 (a), Internal Revenue Code, as amended, shall be made on Form 1582. Separate claim on Form 1582–A will not be required in such cases.

4. Sections 176.3 (e), 176.5, 176.12, 176.18, 176.19 (a), 176.20, 176.21, 176.22, 176.23 (a), 176.27 (a) (1), 176.34, 176.35 (a), 176.39, 176.40, 176.41, 176.49, 176.50, 176.55, 176.57 and 176.69 are amended to read as follows:

§ 176.3 *Definitions.*

* * * * *

(e) "Distilled spirits" or "spirits" shall mean all the substances produced by the distillation of fermented grain, molasses, fruit or other material commonly known as spirits, whiskey, rum, gin, brandy, alcohol, etc., and shall include rectified spirits, cordials, liquers and similar compounds and other rectified products prepared with distilled spirits and wines, except where otherwise indicated.

§ 176.5 *Exportation.* An exportation is an act defined by § 176.3 (g). Shipments of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in part with domestic alcohol to the Philippine Islands, Puerto Rico, the Virgin Islands, American Samoa, Guam, and Panama Canal Zone shall be treated as exportations. There is no authority of law for the allowance of drawback on alcohol contained in such products which are shipped to Alaska, Hawaii, Kingman's Reef, the Midway Islands, or Wake Island. (Sections 3341 (c), as amended, 3351 (c), and 3361 (c), as amended, I.R.C., and section 313 of the Tariff Act of 1930, as amended, (19 U.S.C., Sup. V, 1313 (d), (i)).)

§ 176.12 *Exportation.* An exportation is an act defined by § 176.3 (g). The provisions of this section, relating to the bottling of distilled spirits and wines especially for export and the exportation thereof with benefit of drawback, and the forms prescribed for use in connection therewith, shall apply to like bottling, removal and shipment to American Samoa, Guam, Puerto Rico, the Philippine Islands, the Virgin Islands and the Panama Canal Zone. There is no authority of law for the bottling of distilled spirits and wines especially for export, with benefit of drawback, for shipment to Alaska, Haiwaii, Kingman's Reef, the Midway Islands or Wake Island. (Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup., 1309 (a), (b), (c), (d); secs. 3341 (c), as amended, 3351 (c), and 3361 (c), as amended, I.R.C.

§ 176.18 *Application, Form 122.* Rectifiers shall prepare a separate application on Form 122, "Rectifier's Description of Spirits, Wines, or Other Liquors to be Dumped for Rectification, and Return of Gauge," in triplicate, for each lot of distilled spirits or wines to be rectified before being bottled for exportation with benefit of drawback. The rectifier shall insert in each copy of the form, after the description of the packages to be dumped for rectification, a notice of intention as follows:

The above described spirits or wines will, after rectification, be bottled pursuant to

approval of Form 237 especially for export with benefit of drawback.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup., 1309 (a), (b), (c), (d).)

§ 176.19 *Approval of Form 122*—(a) *By storekeeper-gauger.* Except as provided by § 176.20, all copies of Form 122 will be submitted for approval to the storekeeper-gauger assigned to supervise rectifying operations. The storekeeper-gauger will examine the packages described in the application and the scalped portions of tax-paid stamps or the affidavit or statements in lieu thereof, attached to the original of the form, and if he finds that the spirits or wines to be dumped for rectification and bottling especially for export are as described, and have been lawfully tax-paid, and the forms are properly prepared, he will execute his certificate and authorize the rectifier to dump the packages described in the application and return all copies of the form to the proprietor. Immediately after dumping the spirits or wines, the rectifier shall forward two copies of the Form 122 (one, the original, with the cut-out portions of the tax-paid stamps, or other prescribed evidence of tax-payment attached) to the district supervisor, and retain the remaining copy of such form on file at the rectifying plant.

§ 176.20 *Mixing of distilled spirits or wines tax-paid at different rates.* When a rectifier manufactures distilled spirits to be bottled especially for export with benefit of drawback by a process of rectification involving the mixing of distilled spirits or distilled spirits and wines upon which basic taxes were paid at different rates (i. e. alcohol and wine, alcohol, brandy, and wine, or brandy and rum, etc.), he shall note on Form 122 the number of proof gallons of each kind of spirits and the number of wine gallons and percentage of alcohol of the wine mixed together in the processing receptacle, and no further mixing of such spirits or wines with spirits or wines contained in any other receptacle shall be made, unless a similar notation is made on Form 122.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup., 1309 (a), (b), (c), (d).)

§ 176.21 *Application, Form 237, etc.*—(a) *Procedure.* The rectifier shall make application on Form 237, "Notice of Completion of Rectification and Return of Rectified Spirits, Wines or Other Liquors Gauged, Marked and Stamped," in quadruplicate (or in quintuplicate, if the spirits or wines are to be transferred by pipe line to a contiguous tax-paid bottling house), to the storekeeper-gauger, or to an officer designated by the district supervisor, if no storekeeper-gauger is available, for permission to bottle the spirits or wines. A notice of intention shall be inserted by the rectifier in each copy of Form 237 after the description of the spirits or wines as follows:

The above described spirits (or wines), rectified pursuant to Form 122, Serial No. ------, dated ----------, 19------, are to be bottled especially for export with benefit of drawback.

When the process of manufacturing spirits or wines, in accordance with § 176.20, has been completed, the rectifier shall note on Form 237 the quantity of each kind of distilled spirits or wines, or both (calculated on a proof gallon basis as to spirits and a wine gallon basis as to wines), used in manufacturing the spirits or wines. The storekeeper-gauger or designated officer will, after approval, return all copies of Form 237 to the rectifier, who shall, if the spirits are subject to the rectification tax, forward all copies of the form to the collector of internal revenue, with remittance of the tax, in accordance with the procedure prescribed by Regulations 15. Upon receipt of the copies of Form 237 from the collector, or, in the case of spirits or wines exempted from the rectification tax, upon receipt of the copies of such form from the storekeeper-gauger or designated officer, the rectifier shall proceed to bottle the spirits or wines, or, if the spirits or wines are to be packaged, to fill, mark and stamp the packages. Upon completion of the bottling and casing or packaging of the spirits or wines, and the execution of Form 237, the rectifier shall retain one copy of the form and forward the original and one copy to the district supervisor. The storekeeper-gauger or designated officer will, upon completion of the bottling or packaging operations, supervise the deposit of the spirits or wines in the export storage room, except as provided by § 176.22.

(b) *Tax-paid certificate.* Upon receipt of the Form 122, as provided in § 176.19 and the Form 237, as herein provided, the district supervisor will prepare Form 1600, using as a basis therefor the dumping and bottling records Forms 122 and 237. He will then forward Form 1600 to the Commissioner with a copy each of Forms 122 and 237, and Form 1583, if any. Forms 1583, 1600, 122 and 237 will be retained by the Commissioner for use in connection with the examination and certification of the claim for drawback on such spirits or wines.

(c) *Transfer and storage pending exportation.* Spirits and wines bottled especially for export under this section may be transferred from the export storage room of the bottler, pursuant to Form 1656, to another export storage room at the port of exportation for storage pending release for direct exportation or use as supplies on vessels or aircraft, in accordance with the procedure prescribed by § 176.16 (f). Such export storage room at the port of exportation may be established by the proprietor of a tax-paid bottling house or rectifier, under the provisions of Regulations 11 or 15, whether or not the proprietor of the tax-paid bottling house or rectifier intends to bottle distilled spirits or wines especially for export.

(Sec. 3179 (b), I. R. C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U. S. C., Sup. 1309 (a), (b), (c), (d).)

§ 176.22 *Rectification by person other than the bottler.* Where distilled spirits or wines intended to be bottled especially for export with benefit of drawback are to be rectified by a person other than the bottler, the rectifier shall insert in each copy of Form 122, after the description of the packages to be dumped, a notice of intention as follows:

The above described spirits (or wines) will, after rectification, be packaged and shipped to ----------, for bottling especially for export.
(name and address of bottler)

When the spirits have been rectified and packaged, the rectifier shall insert in each copy of Form 237, before forwarding the same to the district supervisor, a notice of intention as follows:

The above described spirits (or wines), rectified pursuant to Form 122, Serial No. ---- dated ------ 19--, are to be shipped to ---------- for bottling especially for export.
(name and address of bottler)

After the packages have been properly stamped, the rectifier shall stencil or marks thereon, in addition to the other required marks or brands, the words "for bottling especially for export." Such packages shall then be deposited in the export storage room pending release by the Government officer for shipment to the bottling plant, unless they are to be shipped immediately. The rectifier and the storekeeper-gauger, or designated officer, will proceed otherwise in accordance with the provisions of §§ 176.18 to 176.21, inclusive, and in addition the rectifier will furnish the bottler with a copy of the Form 237. Upon receipt of the Forms 122 and 237, the district supervisor will prepare and forward to the Commissioner Form 1600 and a copy each of Forms 122, 237 and Form 1583, if any, in accordance with the procedure indicated by § 176.21 (b). If the spirits or wines so rectified are to be transferred by pipe line to a contiguous tax-paid bottling house, the rectifier shall proceed in accordance with the provisions of this section, except that he shall insert in each copy of Form 237, before forwarding one copy to the bottler and two copies to the district supervisor, in lieu of the notice of intention above required, a notice of intention as follows:

The above described spirits (or wines rectified pursuant to Form 122, Serial No. --------, dated ---------- 19----, are to be transferred by pipe line to----------
(name and address of bottler)
---------- for bottling especially for export.

(Sec. 3179 (b), I. R. C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U. S. C., Sup., 1309 (a), (b), (c), (d).

§ 176.23 *Bottling by person other than rectifier*—(a) *Application, Form 230.* Where packages of distilled spirits or wines rectified by a person other than the bottler, especially for export with benefit of drawback, are received for bottling, the bottler shall, unless such spirits or wines are to be bottled imme-

diately, place them in the export storage room pending removal for bottling. Such spirits or wines will be reported on Form 45 or 52–D, as the case may be, as having been deposited in the export storage room prior to bottling. The bottler (rectifier or proprietor of a tax-paid bottling house) shall prepare a separate application on Form 230, in triplicate, for each lot of such spirits or wines to be dumped and bottled. The bottler shall insert in each copy of Form 230, after the description of the packages, or of spirits of wines transferred by pipe line, a notice of intention as follows:

The above described spirits (or wines) are to be bottled especially for export with benefit of drawback.

Spirits or wines which have been stored in the export storage room in packages may be released by the storekeeper-gauger for bottling, pursuant to request for that purpose by the bottler.

§ 176.27 *Fiberboard cases*—(a) *Requirements.*

* * * * *

(1) *Outer container.* In addition to meeting such requirements, the outer container of the cases shall be double-faced, and shall not be less than .0808 of an inch thick for solid fiberboard, and three-sixteenths of an inch thick for single and double wall corrugated fiberboard, and shall have a bursting strength of not less than 200 pounds per square inch, Mullen or Cady test, and be faced on the outside with tough smooth material. The outer ply shall be water-proofed, as required by the above-mentioned rules, and the inner plies may be water-proofed where desired. The outer flaps of both the top and bottom shall meet at the center of the case.

§ 176.34 *Record of spirits and wines bottled especially for export.*—(a) *By rectifiers and proprietors of tax-paid bottling houses.* The receipt, rectification, if any, bottling and disposition of distilled spirits and wines bottled especially for export, with benefit of drawback, shall be entered by the rectifier on Form 45, "Rectifier's Monthly Record and Report". All applicable information indicated by the headings of the columns and lines and the instructions printed on the form will be entered thereon. The receipt, bottling and disposition of distilled spirits or wines bottled especially for export with benefit of drawback, by proprietors of tax-paid bottling houses shall be entered on Form 52–D, "Monthly Record and Report of Tax-Paid Bottling House Operations". All applicable information indicated by the headings of the columns and lines, and the instructions printed on the form, will be entered thereon.

(b) *By winemakers and proprietors of bonded storerooms.* The receipt, bottling and disposition of wines bottled especially for export with benefit of drawback shall be entered by winemakers and proprietors of bonded storerooms, on Form 52–D, "Monthly Record and Report of Tax-Paid Bottling House Operations". All applicable information indicated by the headings of the columns and lines, and the instructions printed on the form, will be entered thereon. Form 52–D will be kept, and transcript thereof will be forwarded to the district supervisor on or before the 10th day of the succeeding month.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup., 1309 (a), (b), (c), (d).)

§ 176.35 *Claim and entry* (a) *Form 1582 or Form 1582–A.* Claims for allowance of drawback of internal revenue taxes on distilled spirits or wines manufactured or produced in the United States and bottled especially for export, and entry for the exportation of such spirits or wines with benefit of drawback, shall be prepared by the exporter on Form 1582, "Claim for Internal Revenue Drawback on Bottled Distilled Spirits Exported, and Entry for Exportation Thereof," in quadruplicate, for distilled spirits, and Form 1582–A, "Claim for Internal Revenue Drawback on Bottled Wines Exported, and Entry for Exportation Thereof," in quadruplicate, for wines. All copies of Form 1582 or Form 1582–A, with Part 1 and Part 2 executed, shall be filed by the exporter with the district supervisor of the district wherein is located the export storage room in which the bottled spirits or wines are stored at the time of exportation. All of the information called for, as indicated by the headings of the columns, and the lines of the form, and the instructions printed on the form, shall be furnished.

§ 176.39 *Certificate, Form 1583.* Where spirits or wines manufactured (rectified) in the United States from imported spirits or wines are bottled especially for export with benefit of drawback, the collector of customs at the port where the entry or withdrawal for consumption was made will, upon application in writing by the rectifier, execute a certificate on Form 1583, in triplicate, showing that internal revenue tax has been collected on the imported spirits or wines described in the application. Two copies of the certificate will be forwarded by the collector of customs to the district supervisor of the Alcohol Tax Unit district in which the spirits were rectified. The remaining copy will be retained by the collector of customs. Such certificates shall be serially numbered, beginning with number 1 for each customs district.

(Sec. 3179 (b), I. R. C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U. S. C., Sup., 1309 (a), (b), (c), (d).)

§ 176.40 *Application for certificate.* The rectifier must set forth in his application for the issuance of the certificate sufficient information to enable the collector of customs to identify the importation, such as the port of entry, the entry number, name of importing vessel or other carrier, date of importation, name of importer, marks and numbers of packages, and a description of the spirits or wines.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup., 1309 (a), (b), (c), (d).)

§ 176.41 *Certificate required before approval of claim.* The Commissioner will not approve a claim for drawback on spirits or wines manufactured from imported spirits or wines and bottled especially for export prior to the receipt of the certificate, Form 1583, from the collector of customs, showing that internal revenue tax has been collected on such imported spirits or wines.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup., 1309 (a), (b), (c), (d).)

§ 176.49 *Direct delivery for customs inspection.* (a) If the export storage room where the bottled spirits or wines are stored is located at the port of exportation, the exporter shall deliver the shipment directly for customs inspection and supervision of lading. The drawback entry must be filed with the collector of customs at least six hours prior to the lading of the spirits in order to allow opportunity for customs inspection. The exporter must file one copy of the export bill of lading with the collector of customs and one copy with the district supervisor. The bill of lading must show the exporter as the shipper, the serial numbers of the cases, and the quantity shipped in wine gallons.

§ 176.50 *Shipment to port of export.* In the event the export storage room where the spirits or wines are stored is located elsewhere than at the port of exportation, the exporter shall deliver the shipment either directly for customs inspection and supervision of lading, as in the case where spirits or wines are stored at the port of exportation, or to a common carrier for transportation to the port of exportation. If the spirits or wines are delivered to a common carrier for transportation, the exporter shall procure two copies of the bill of lading covering such transportation. In case of exportation through a border port to contiguous foreign territory, the bill of lading shall cover transportation to destination and must show the routing, particularly the carrier which will deliver the shipment for customs inspection at the border. The bill of lading shall also show that the shipment was sent in care of the collector or deputy collector of customs at the border port. The exporter shall immediately forward one copy of the bill of lading direct to the collector of customs at the port of export, and transmit the other copy to the district supervisor of the district from which the spirits or wines were released for exportation. The district supervisor will attach his copy of the bill of lading to the copy of the claim and entry, Form 1582 or Form 1582–A, returned by the Government officer at the export storage room.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup., 1309 (a), (b), (c), (d).)

§ 176.55 *District supervisor's approval.* The district supervisor will examine the two copies of drawback claim, Form 1582 or 1582–A, received from the collector of customs, and compare them with the copy received from the storekeeper-gauger or designated officer who supervised the release of the liquor from the export storage room. If the district supervisor is satisfied that the claimant has complied in every respect with the law and regulations, and the claim is valid, and if a good and sufficient bond has been furnished, he will execute his certificate of approval on each copy of the claim and forward the original to the Commissioner, except as provided by § 176.45.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup., 1309 (a), (b), (c), (d).)

§ 176.57 *Action on claim.* The Commissioner will, upon receipt of the claim from the district supervisor, examine the claim and the records of his office, Forms 230, 122, 237, 1583, and 1600, previously furnished him, as provided by §§ 176.16 to 176.23, inclusive, to determine whether the spirits or wines described in the claim have been tax-paid. If the Commissioner finds that such spirits or wines have been tax-paid, he will execute a certificate to that effect on Form 646–A, "Certificate of Commissioner of Internal Revenue of Tax-Paid Spirits," or Form 646–B, "Certificate of Commissioner of Internal Revenue of Tax-Paid Wines." If the claim is allowed in whole, or in part, the Commissioner will forward it, together with his certificate, Form 646–A or Form 646–B, scheduled on Form 1550–A, "Schedule of Claims for Allowance of Drawback on Distilled Spirits or Wines Bottled Especially for Export and Exported," to the Comptroller General of the United States for certification of the amount allowed. If the claim is disallowed, the Commissioner will so notify the claimant and state the reasons therefor.

(Sec. 3179 (b), I.R.C., sec. 309 (a), (b), (c), (d), Tariff Act of 1930, as amended; 19 U.S.C., Sup. 1309 (a), (b), (c), (d).)

§ 176.69 *Exportation.* An exportation is an act defined by § 176.3 (g), except that shipments of tax-paid distilled spirits in distillers' original packages to American Samoa, Guam, Puerto Rico, the Philippine Islands, the Virgin Islands and the Panama Canal Zone shall be treated as exportations. There is no authority of law for the shipment of distilled spirits in distillers' original packages, with benefit of drawback, to Alaska, Hawaii, Kingman's Reef, the Midway Islands, or Wake Island. (Sections 2887, as amended, 3176, 3341 (c), as amended, 3351 (c), and 3361 (c), as amended, I.R.C.)

5. Page 36 of Regulations 28 is modified by striking out "§ 165.64" and substituting therefor "§ 176.64."

6. The regulations in this part shall take effect on and after the sixtieth day following the date of approval, except §§ 176.5, 176.12 and 176.69 which shall take effect immediately.

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: October 3, 1941.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 41–7469; Filed, October 6, 1941; 3:29 p. m.]

[T.D. 5083]

PART 302—TAX ON PISTOLS AND REVOLVERS

Regulations 47, as made applicable to the Internal Revenue Code by Treasury Decision 4885, amended

In order to conform Regulations 47 [Part 302, Title 26, Code of Federal Regulations], relating to the tax on sales of pistols and revolvers by the manufacturer, to section 210 of the Revenue Act of 1940 (54 Stat. 516), and section 521 (a) (9) and (b) of the Revenue Act of 1941 (Public Law 250, 77th Congress), approved September 20, 1941, amending section 2700 (a) of the Internal Revenue Code, such regulations, but only as prescribed and made applicable to the Internal Revenue Code by Treasury Decision 4885, approved February 11, 1939 [Chapter I, note, Title 26, Code of Federal Regulations, 1939 Sup.], are amended as follows:

There is inserted immediately preceding § 302.1 [Article 1] the following:

SEC. 2700. TAX. (Internal Revenue Code.)

(a) *Rate.* There shall be levied, assessed, collected, and paid upon pistols and revolvers sold or leased by the manufacturer, producer, or importer, a tax equivalent to 10% of the price for which so sold or leased.

* * * * *

SEC. 210. MISCELLANEOUS EXCISES. (Revenue Act of 1940.)

The Internal Revenue Code is amended by inserting at the end of chapter 9 the following new chapter:

CHAPTER 9A—DEFENSE TAX FOR FIVE YEARS

SEC. 1650. DEFENSE TAX FOR FIVE YEARS.

(a) In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period after June 30, 1940, and before July 1, 1945, shall be the rates set forth under the heading "Defense-Tax Rate":

Section	Description of tax	Old rate	Defense-tax rate
*	* * *	*	*
2700 (a)...	Pistols and revolvers.	10 percent...	11 percent.
*	* * *	*	*

* * * * *

SEC. 521. DEFENSE EXCISE TAX RATES MADE PERMANENT WHICH ARE NOT INCREASED BY THIS ACT. (Revenue Act of 1941.)

(a) The following sections of the Internal Revenue Code are amended as follows:

* * * * *

(9) *Pistols and revolvers.* Section 2700 (a) is amended by striking out "10 per centum" and inserting in lieu thereof "11 per centum".

(b) The rates specified in subsection (a) shall be applicable only with respect to the period after the date of the enactment of this Act, and the rates specified in section 1650 (a) * * * of the Internal Revenue Code shall not apply with respect to such period.

Section 302.1 [Article 1] is amended to read as follows:

§ 302.1 *Rate of tax.* The tax is imposed at the rate of 10 percent with respect to the period prior to July 1, 1940. By reason of the modification made by section 210 of the Revenue Act of 1940 and the amendment made by section 521 of the Revenue Act of 1941, the tax is levied at the rate of 11 percent with respect to the period after June 30, 1940.

(This Treasury Decision is prescribed pursuant to section 210 of the Revenue Act of 1940 (54 Stat. 516), section 521 of the Revenue Act of 1941, approved September 20, 1941, and section 3791 of the Internal Revenue Code (53 Stat. 467; 26 U.S.C., Sup. V, 3791))

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: October 3, 1941.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 41–7468; Filed, October 6, 1941; 3:31 P. M.]

[T.D. 5080]

PART 305—TAX ON PLAYING CARDS

Increase of Rate of Tax

In order to conform Regulations 66 [Part 305, Title 26, Code of Federal Regulations], as amended by Treasury Decision 4987, approved July 18, 1940, relating to the tax on playing cards under the Internal Revenue Code, to sections 531 and 536 of the Revenue Act of 1941, (Public Law 250, Seventy-seventh Congress), approved September 20, 1941, amending section 1807 (a) of the Internal Revenue Code, such regulations, but only as prescribed and made applicable to the Internal Revenue Code by Treasury Decision 4885, approved February 11, 1939 [Chapter I, note, Title 26, Code of Federal Regulations, 1939 Sup.], are further amended as follows:

There is inserted immediately preceding § 305.8 [Article 8], the following:

TITLE V OF THE REVENUE ACT OF 1941

PART III—INCREASES IN RATES OF EXISTING EXCISE TAXES

SEC. 531. PLAYING CARDS.

Section 1807 (a) of the Internal Revenue Code is amended by striking out "10 cents" and inserting in lieu thereof "13 cents."

SEC. 536. EFFECTIVE DATE OF PART III.

The amendments made by this Part shall be applicable only with respect to the period

beginning with October 1, 1941, and the rates specified in * * * section 1807 (b) * * * of the Internal Revenue Code shall not apply with respect to such period. This Part shall take effect on October 1, 1941.

The first paragraph of § 305.8 [Article 8], as amended by Treasury Decision 4987,[1] is amended to read as follows:

§ 305.8 *Tax on playing cards.* On and after October 1, 1941, the rate of tax on playing cards is 13 cents per pack containing not more than 54 cards. Each additional 54 cards or fraction thereof in a pack constitutes a new pack on which tax must be paid. For example, if a pack contains 120 cards it must be considered as constituting three packs, two packs of 54 cards and one pack of 12 cards, and each such pack is subject to tax at the rate in effect when liability is incurred.

There is inserted immediately preceding § 305.19 [Article 19], the following:

TITLE V OF THE REVENUE ACT OF 1941

PART III—INCREASES IN RATES OF EXISTING EXCISE TAXES

SEC. 531. PLAYING CARDS.

Section 1807 (a) of the Internal Revenue Code is amended by striking out "10 cents" and inserting in lieu thereof "13 cents."

SEC. 536. EFFECTIVE DATE OF PART III.

The amendments made by this Part shall be applicable only with respect to the period beginning with October 1, 1941, and the rates specified in * * * section 1807 (b) * * * of the Internal Revenue Code shall not apply with respect to such period. This Part shall take effect on October 1, 1941.

The first paragraph of § 305.19 [Article 19], as amended by Treasury Decision 4987, is amended to read as follows:

§ 305.19 *Imported playing cards*—(a) *Liability to tax.* On and after October 1, 1941, playing cards imported from foreign countries must be tax-paid at the rate of 13 cents per pack of not more than 54 cards. Such tax is in addition to any import duty and must be paid by affixing the required stamps prior to release of the cards from customs custody.

(This Treasury decision is prescribed pursuant to sections 531 and 536 of the Revenue Act of 1941, approved September 20, 1941, and sections 1835 and 3791 of the Internal Revenue Code (53 Stat. 204, 467; 26 U.S.C., Sup. V, 1835, 3791).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: October 3, 1941.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 41-7465; Filed, October 6, 1941; 3:32 p. m.]

[T.D. 5082]

PART 314—TAXES ON GASOLINE, LUBRICATING OIL, AND MATCHES

Regulations 44 (1939 Edition) Amended

In order to conform Regulations 44[2] [Part 314, Title 26, Code of Federal Regulations, 1939 Sup.], as amended by Treasury Decision 4990,[3] approved July 19, 1940, relating to taxes on gasoline, lubricating oils, and matches under the Internal Revenue Code, as amended, to sections 501, 521 (a) (20) and (21) and (b), 547, 549, 550 and 553 of the Revenue Act of 1941 (Public Law 250, 77th Cong.), approved September 20, 1941, such regulations are further amended as follows:

PARAGRAPH 1. There is inserted immediately preceding § 314.1 the following:

SEC. 553. ADMINISTRATIVE CHANGES IN MANUFACTURERS' EXCISE TAX TITLE OF CODE. (Revenue Act of 1941.)

(a) *Leases.* Section 3440 of the Internal Revenue Code is amended to read as follows:

SEC. 3440. DEFINITION OF SALE.

For the purpose of this chapter the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by the manufacturer, producer, or importer shall be considered a taxable sale of such article.

* * * * *

PAR. 2. There is inserted immediately preceding § 314.2 the following:

SEC. 501. 1932 EXCISE TAXES MADE PERMANENT. (Revenue Act of 1941.)

Section 3452 of the Internal Revenue Code (relating to expiration of 1932 excise taxes) is repealed.

SEC. 521. DEFENSE EXCISE TAX RATES MADE PERMANENT WHICH ARE NOT INCREASED BY THIS ACT. (Revenue Act of 1941.)

* * * * *

(b) The rates specified in subsection (a) shall be applicable only with respect to the period after the date of the enactment of this Act, and the rates specified in section 1650 (a) * * * of the Internal Revenue Code shall not apply with respect to such period.

SEC. 550. EFFECTIVE DATE OF PART IV. (Revenue Act of 1941, Title V.)

(a) The amendments made by this Part shall be applicable only with respect to the period beginning with the effective date of this Part, and the rates specified in section 1650 (a) * * * shall not apply with respect to such period. This Part shall take effect on October 1, 1941.

* * * * *

PAR. 3. Section 314.2 as amended by Treasury Decision 4990 is further amended to read as follows:

§ 314.2 *Effective period.* Taxes on the sale of gasoline, lubricating oils, and matches became effective under Title IV of the Revenue Act of 1932, on June 21, 1932. The applicable provisions of the Revenue Act of 1932, as amended, were superseded as of March 1, 1939, by provisions of the Internal Revenue Code. The Code provisions were amended by subsequent acts, including the Revenue Act of 1941.

Section 521 (b) of the Revenue Act of 1941 is applicable to gasoline and lubricating oils, and section 550 (a) to matches. Section 501 is applicable to all three. With respect to gasoline and lubricating oils, the effect is to continue indefinitely the increases of tax rates imposed by section 1650 (a) of the Internal Revenue Code, added by section 210 of the Revenue Act of 1940. Under section 1650 (a) the tax increases were effective after June 30, 1940, and before July 1, 1945.

Prior to enactment of the Revenue Act of 1940, there was a tax, imposed by section 3409 of the Internal Revenue Code, on fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem. Section 1650 (a) of the Internal Revenue Code increased the tax on these matches also. The increased tax rate on these matches is continued indefinitely. However, section 547 of the Revenue Act of 1941 also imposes a tax on other matches at a lower rate. This latter tax, by virtue of section 550 (a) of the Revenue Act of 1941, takes effect on October 1, 1941. The result then is that the tax rates on gasoline, lubricating oils, and fancy wooden matches and wooden matches having a stained, dyed, or colored stock or stem which have been in effect since July 1, 1940, continue in effect indefinitely, and a new tax on other matches is applicable for an indefinite period beginning October 1, 1941.

The tax attaches upon sale or use by the manufacturer irrespective of when the article was manufactured, produced, or imported.

PAR. 4. There is inserted immediately following the subtitle "Liability for Tax", which follows § 314.2, the following:

SEC. 553. ADMINISTRATIVE CHANGES IN MANUFACTURERS' EXCISE TAX TITLE OF CODE. (Revenue Act of 1941.)

* * * * *

(b) *Existing contracts.* Chapter 29 of the Internal Revenue Code is amended by adding at the end thereof the following new section:

SEC. 3453. EXISTING CONTRACTS.

(a) *Tax payable by vendee.* If (1) any person has, prior to the effective date of Part V of Title V of the Revenue Act of 1941, made a bona fide contract for the sale on or after such date, of any article with respect to the sale of which a tax is imposed by that Act or an existing rate of tax is increased by that Act, and (2) such contract does not permit the adding to the amount to be paid under such contract of the whole of such tax or increased rate of tax, then (unless the contract prohibits such addition) the vendee shall, in lieu of the vendor, pay so much of the tax as is not so permitted to be added to the contract price.

(b) *Tax paid to vendor.* Taxes payable by the vendee shall be paid to the vendor at the time the sale is consummated, and shall be collected and paid to the United States by the vendor in the same manner as provided in section 3467. In case of failure or refusal by the vendee to pay such taxes to the vendor, the vendor shall report the facts to the Commissioner who shall cause collection of such taxes to be made from the vendee.

PAR. 5. There is inserted immediately preceding § 314.3 the following:

SEC. 549. INSTALLMENT, ETC., PAYMENTS. (Revenue Act of 1941.)

Section 3441 (c) of the Internal Revenue Code is amended to read as follows:

(c) (1) In the case of (A) a lease, (B) a contract for the sale of an article wherein it is provided that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by insallments, or (C) a conditional sale, there shall be paid upon each payment with respect to the article that portion of the total tax which is proportionate to the portion of the total amount to be paid represented by such payment.

(2) In the application of paragraph (1) to the articles with respect to which the rate of tax is increased by the Revenue Act

[1] 5 F.R. 2637.
[2] 4 F.R. 4641.
[3] 5 F.R. 2647.

of 1941 or by the Revenue Act of 1940, where the lease, contract of sale, or conditional sale, and delivery thereunder—

(A) was made before July 1, 1940, the total tax referred to in paragraph (1) shall be the tax at the rate in force on June 30, 1940, and not at any greater rate; or

(B) was made after June 30, 1940, and before October 1, 1941, the total tax referred to in paragraph (1) shall be the tax at the rate in force on September 30, 1941, and not at any greater rate.

(3) Despite the provisions of paragraph (1), no tax shall be imposed with respect to any article not taxable under the law in existence on the day before the date of the enactment of the Revenue Act of 1941, if with respect to such article the lease, contract for sale, or conditional sale, and delivery thereunder, was made before October 1, 1941.

PAR. 6. Section 314.3 is amended by adding thereto the following paragraph:

§ 314.3 *Liability for a tax.* * * *

The amendment of section 3440 of the Internal Revenue Code by section 553 of the Revenue Act of 1941 clarifies existing language. The term "lease" includes any renewal or extension of a lease or any subsequent lease of an article.

PAR. 7. Section 314.4 as amended by Treasury Decision 4990 is further amended by substituting the following for paragraph 5:

§ 314.4 *When tax attaches.* * * * Where an article is leased by the manufacturer, or sold under an installment-payment contract, or under a conditional-sale contract with payments to be made in installments, a proportionate part of the total tax shall be paid upon each payment received with respect to the article. The tax must be returned and paid to the collector during the month following that in which such payment is received.

In the case of articles with respect to which the rate of tax is increased by the Revenue Act of 1940 or by the Revenue Act of 1941:

(a) If the lease, contract for sale, or conditional sale, and delivery thereunder, were made before July 1, 1940, the tax on all payments made after September 30, 1941, is at the rate in force on June 30, 1940;

(b) If the lease, contract for sale, or conditional sale, and delivery thereunder, were made after June 30, 1940, and before October 1, 1941, the tax on all payments after September 30, 1941, is at the rate in force on September 30, 1941.

In the case of articles not subject to tax on September 30, 1941, if the lease, contract for sale, or conditional sale, and delivery thereunder, were made on or before that date, no tax is due on payments made on or after October 1, 1941.

PAR. 8. There is inserted immediately preceding § 314.30 the following:

SEC. 521. DEFENSE EXCISE TAX RATES MADE PERMANENT WHICH ARE NOT INCREASED BY THIS ACT. (REVENUE ACT OF 1941)

(a) The following sections of the Internal Revenue Code are amended as follows:

* * * * *

(20) *Gasoline.* Section 3412 (a) is amended by striking out "1 cent" and inserting in lieu thereof "1½ cents".

* * * * *

PAR. 9. Section 314.35 as amended by Treasury Decision 4990 is further amended to read as follows:

§ 314.35 *Rate of tax.* The tax payable by the importer or producer thereof, or by any producer of gasoline with respect to the period after June 30, 1940, is at the rate of 1½ cents a gallon.

PAR. 10. There is inserted immediately preceding § 314.40 the following:

SEC. 521. DEFENSE EXCISE TAX RATES MADE PERMANENT WHICH ARE NOT INCREASED BY THIS ACT. (REVENUE ACT OF 1941)

(a) The following sections of the Internal Revenue Code are amended as follows:

* * * * *

(21) *Lubricating oils.* Section 3413 is amended by striking out "4 cents" and inserting in lieu thereof "4½ cents".

* * * * *

PAR. 11. The first sentence of § 314.44 as amended by Treasury Decision 4990 is further amended to read as follows:

§ 314.44 *Rate of tax.* The tax payable by the manufacturer with respect to the period after June 30, 1940, is at the rate of 4½ cents a gallon.

PAR. 12. There is inserted immediately preceding § 314.50 the following:

SEC. 547. MATCHES. (REVENUE ACT OF 1941, TITLE V, PART IV)

Section 3409 of the Internal Revenue Code is amended to read as follows:

SEC. 3409. TAX ON MATCHES.

(a) *Manufacturers' tax.* There shall be imposed upon matches sold by the manufacturer, producer, or importer, a tax of 2 cents per 1,000 matches, except that in the case of fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, packed in boxes or in bulk, the tax shall be 5½ cents per 1,000 matches.

* * * * *

PAR. 13. § 314.50 is amended to read as follows:

§ 314.50 *Scope of tax.* The tax imposed by section 3409 of the Internal Revenue Code, as amended by section 547 of the Revenue Act of 1941, applies to all types of matches, including waxed matches, parlor matches, safety matches, book matches, vestas, etc., regardless of whether sold in bulk, boxes, books, or in any other manner.

PAR. 14. § 314.52 as amended by Treasury Decision 4990 is further amended to read as follows:

§ 314.52 *Rate of tax.* In the case of fancy wooden matches and wooden matches having a stained, dyed, or colored stick or stem, the tax payable by the manufacturer with respect to the period after June 30, 1940, is at the rate of 5½ cents per thousand.

In the case of all other matches the tax payable by the manufacturer with respect to the period on and after October 1, 1941, is at the rate of 2 cents per thousand.

(This Treasury decision is prescribed pursuant to sections 501, 521 (a) (20) and (21) and (b), 547, 549, 550 and 553 of the Revenue Act of 1941, approved September 20, 1941, and section 3791 of the Internal Revenue Code (53 Stat., 467; 26 U.S.C., Sup. V, 3791))

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: October 3, 1941.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 41-7467; Filed, October 6, 1941; 3:31 p. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-841]

PARTS 322 AND 323—MINIMUM PRICE SCHEDULE, DISTRICTS NOS. 2 AND 3

ORDER GRANTING RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD 3 FOR CLARIFICATION OF THE SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT 3 WITH RESPECT TO SALES VIA RIVER TO THE COLONIAL STEEL COMPANY AT COLONA, PENNSYLVANIA

A petition in this matter having been filed by District Board 3 with the Bituminous Coal Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, as amended, requesting that deliveries of coals to the Colonial Steel Company at Colona, Pennsylvania, be considered free alongside and that code members in District 3 be permitted to sell coal to that company at the effective minimum prices for f. a. s. delivery;

District Boards 2 and 6 having filed petitions of intervention;

Temporary relief having been granted, classifying the Colonial Steel Company as an ex-river purchaser and applying for shipments thereto from Districts 2 and 3 the effective minimum prices applicable to ex-river shipments to Youngstown, Ohio, and Walford, Pennsylvania;

Pursuant to an Order of the Director, a hearing in this matter having been held before a duly designated Examiner of the Division at a hearing room thereof in Washington, D. C., at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard;

The parties having waived the preparation and filing of a report by the Examiner and the record having thereupon been submitted to the undersigned;

The undersigned having made Findings of Fact and Conclusions of Law and having rendered an Opinion, which are filed herewith;[1]

Now, therefore, it is ordered, That § 322.9 (*Special prices*—(e) *Ex-river coal*) and § 323.8 (*Special prices*—(f) *Ex-river coal*) in the Schedules of Effectice Minimum Prices for All Shipments Except Truck for Districts 2 and 3 respectively shall be and they hereby are

[1] Not filed as part of the original document.

amended to contain the following provision:

Ex-river shipments made from mines in Districts 2 and 3 to the plant of the Colonial Steel Company at Colona, Pennsylvania, may take the effective minimum prices applicable to ex-river shipments to Youngstown, Ohio and Walford, Pennsylvania.

It is further ordered, That in all other respects the prayer for relief herein is denied.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7492; Filed, October 7, 1941; 10:15 a. m.]

[Docket No. A-587]

PART 324—MINIMUM PRICE SCHEDULE, DISTRICT NO. 4

ORDER GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF HANNA COAL COMPANY OF OHIO, A CODE MEMBER PRODUCER IN DISTRICT NO. 4, FOR A MODIFICATION OF PRICE INSTRUCTION PERTAINING TO RAILROAD FUEL CONTAINED IN THE SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 4

An original petition having been filed with the Bituminous Coal Division by the Hanna Coal Company of Ohio, a code member in District 4, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, seeking permission to ship 4" x 1½" egg coal containing not less than 40 percent of screenings not exceeding 1½", produced at its Willow Grove No. 10 Mine, for railroad fuel use at mine run prices;

Pursuant to Orders of the Director, a hearing having been held in this matter before a duly designated Examiner of the Division in Washington, D. C., at which all interested parties were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard;

The preparation and filing of a report by the Examiner having been waived, and the matter thereupon having been submitted to the Director;

The Director having made Findings of Fact and Conclusions of Law and having rendered an Opinion in this matter, which are filed herewith:[1]

It is ordered, That § 324.11 (a) (*Special prices—Railroad fuel prices for all movements exclusive of lake cargo railroad fuel*) in the Schedule of Effective Minimum Prices for District No. 4 For All Shipments Except Truck be, and the same hereby is, amended by inserting the following footnote:

The Hanna Coal Company of Ohio, for Railroad Fuel, may ship 4" x 1½" egg coal containing not less than 40 per cent of screenings not exceeding 1½", produced at its Willow Grove No. 10 Mine (Mine Index 157), at the mine run price applicable to that mine.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7487; Filed, October 7, 1941; 10:13 a. m.]

[Docket No. A-570]

PART 328—MINIMUM PRICE SCHEDULE, DISTRICT NO. 8

ORDER CONCERNING FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 8 FOR CHANGE IN CLASSIFICATION IN SIZE GROUPS 18-21 OF COAL PRODUCED BY THE SNAP CREEK COAL COMPANY

This proceeding, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been instituted upon a petition filed with the Bituminous Coal Division by District Board 8, requesting that the coals produced at the Snap Creek Mine (Mine Index No. 582) of the Snap Creek Coal Company, a code member in District 8, for shipment by rail into all market areas be reclassified from "J" to "L";

An informal conference having been held and temporary relief prayed for in the original petition having been granted; petitions of intervention having been filed by Gay Coal and Coke Company, requesting relief co-extensive with and corresponding to any relief granted original petitioner; by Island Creek Coal Company, seeking general relief; and by District Board 2;

Pursuant to an Order of the Director, and after notice to all interested persons, a hearing having been held in this matter before Travis Williams, a duly designated Examiner of the Division, in Washington, D. C.; appearances having been entered by petitioner, District Board 8, and Gay Coal and Coke Company;

All parties having waived the preparation and filing of a report by the Examiner, and the matter thereupon having been submitted to the undersigned; the undersigned having made Findings of Fact and Conclusions of Law and having rendered an Opinion in this matter in which it was concluded that the relief requested by Snap Creek Coal Company be granted and that requested by the intervenor, Gay Coal and Coke Company, be denied;

Now, therefore, it is ordered, That § 328.11 (*Alphabetical list of code members*) in the Schedule of Effective Minimum Prices for District Board 8 for All Shipments Except Truck be and it hereby is amended as follows: Commencing forthwith, the price classification and corresponding minimum prices for the coals of the Snap Creek Mine (Mine Index No. 582) of the Snap Creek Coal Company in Size Groups 18-21 shall be "L" for shipment to all destinations other than the Great Lakes and for Great Lakes cargo only; and

It is further ordered, That in all other respects the requested relief herein be and it hereby is denied.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Dec. 41-7486; Filed, October 7, 1941; 10:12 a. m.]

[Docket No. A-348]

PART 338—MINIMUM PRICE SCHEDULE, DISTRICT NO. 18

FINDINGS OF FACT, CONCLUSIONS OF LAW, MEMORANDUM OPINION AND ORDER IN THE MATTER OF THE PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 18 FOR CHANGES IN THE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS PRODUCED AND SOLD IN DISTRICT NO. 18

This proceeding was instituted upon a petition filed with the Bituminous Coal Division by District Board 18, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. The petitioner seeks reductions in the effective minimum prices for Subdistricts 6 and 7 of District 18.

Pursuant to the petitioner's request for temporary relief, pending final disposition of the petition, and Order of the Director, temporary relief was granted.

Pursuant to Orders of the Director, and after due notice to all interested persons, a hearing in this matter was held before Thurlow G. Lewis, a duly designated Examiner of the Division, at a hearing room of the Division in Denver, Colorado. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. The petitioner and the Consumers' Counsel Division appeared. At the close of the hearing the parties waived the preparation and filing of a report by the Examiner, and the record was thereupon submitted to the undersigned. The Consumers' Counsel Division filed a brief.

The petition requests that the following changes be made in the effective minimum prices applicable to Subdistricts 6 and 7 of District 18:

(a) That minimum prices for Subdistrict 6 to all market areas be changed to read as follows: Size Group 2, 2" Lump, 400; Size Group 6, 3" x 1½", 350; Size Group 8, 1½" square x 1", 300; Size Group 9, 1" x ⅜", 215; Size Group 12, 1" x 0", 170; Size Group 13, ⅜" x 0", 150; Size Group 15, Straight Mine Run, 350; and that the price under Size Group 10 be eliminated from Subdistrict 6.

(b) That minimum prices for Subdistrict 7 be changed to read as follows: Size Group 2, 2" Lump, 400; Size Group 8, 1½" Square x 1", 300; Size Group 9, 1" x ⅜", 215; Size Group 12, 1" x 0", 170; and that all other prices should re-

[1] Not filed as part of the original document.

main the same as shown in the District 18 price schedule.

The evidence shows that subsequent to the establishment of effective minimum prices for District 18, a controversy arose among certain producers in Subdistrict 6 and Subdistrict 7. District Board 18 called a meeting with reference to these matters, which was attended by all interested producers in Subdistricts 6 and 7 and competing subdistricts. At this meeting the subject was exhaustively discussed and the conclusions reached that, due to changed conditions, the effective prices applicable to Subdistricts 6 and 7 should be changed. Thereupon the District Board worked out the changes requested in this proceeding. The witness for the District Board testified that the requested prices would be just and equitable to the producers in Subdistricts 6 and 7 as among themselves and also to producers of competing coals. All the producers in District 18 were given notice of the meeting and of the proposed changes and it appears from the evidence that no objection or opposition was interposed by anyone. It further appears that the proposed changes will result in the saving of several thousand dollars annually by consumers.

Witness Litts testified for the District Board that the changes requested comply with all the standards of the Act and should be established as the effective minimum prices applicable to the coals in question.

There was no opposition expressed to the relief requested.

I find, upon all the evidence, that the amendment of the Schedule of Effective Minimum Prices for District No. 18 For All Shipments, as requested by the petitioner, is required in order to effectuate the purposes of Section 4 II (a) and 4 II (b) of the Act and to comply in all respects with the standards thereof.

Now, therefore, it is ordered, That § 338.5 (*General prices; minimum prices for shipment via rail transportation*), and § 338.21 (*General prices in cents per net ton for shipment into all market areas*) in the Schedule of Effective Minimum Prices for District No. 18 for All Shipments be and they hereby are amended as follows:

1. In § 338.5 and § 338.21 the prices listed for *Subdistrict 6* shall be deleted and the following prices inserted in lieu thereof:

Size groups:						
2	6	8	9	12	13	15
400	350	300	215	170	150	350

2. In § 338.5 and § 338.21 the prices listed for *Subdistrict 7* shall be deleted and the following prices inserted in lieu thereof:

Size groups:					
2	8	9	11	12	13
400	300	215	190	170	125

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7490; Filed, October 7, 1941; 10:14 a. m.]

[Docket No. A-448]

PART 339—MINIMUM PRICE SCHEDULE, DISTRICT NO. 19

ORDER GRANTING RELIEF IN THE MATTER OF THE PETITION OF BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 19 FOR CHANGES IN THE EFFECTIVE MINIMUM PRICES APPLICABLE TO SUBDISTRICT 2, DISTRICT NO. 19, IN THE CASE OF RAIL SHIPMENTS OF COALS IN SIZE GROUPS 11 AND 16 INTO MARKET AREAS 237–240 AND 247–254

This proceeding having been instituted upon a petition filed with the Bituminous Coal Division by District Board No. 19, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, requesting an increase in the minimum f. o. b. mine price of the Size Group 11 coals produced in Subdistrict 2 of District No. 19 from $2.15 to $2.35 for shipment by rail to Market Areas 237–240 and 247–254, inclusive;

Pursuant to orders of the Director, a hearing having been held in this matter before a duly designated examiner of the Division at a hearing room thereof in Salt Lake City, Utah, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise to be heard;

The preparation and filing of a report by the Examiner having been waived by the parties and the matter thereupon having been submitted to the undersigned;

The undersigned having made and entered Findings of Fact, Conclusions of Law and having rendered an Opinion in this matter, which are filed herewith,[1] in which it is concluded that the requested relief should be granted.

Now therefore it is ordered, That § 339.5 (*General prices; minimum prices for shipment via rail transportation*) in the Schedule of Effective Minimum Prices for District No. 19 for All Shipments be and it hereby is amended as follows: Commencing fifteen (15) days from the date of this order the effective minimum price for coal in Size Group 11 produced in Subdistrict 2 for shipment by rail to Market Areas 237–240 and 247–254 shall be $2.35 per net ton.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7488; Filed, October 7, 1941; 10:13 a. m.]

[Docket No. A-422]

PART 342—MINIMUM PRICE SCHEDULE, DISTRICT NO. 22

ORDER GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF THE BITUMINOUS COAL PRODUCERS' BOARD FOR DISTRICT NO. 22 FOR MODIFICATION OF THE SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 22, BY CHANGE IN SIZE GROUP DESCRIPTION OF SIZE GROUP NO. 13

A petition, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937, having been filed in this matter with the Bituminous Coal Division by District Board 22 requesting a revision in the description and price of Size Group 13 in the Schedule of Effective Minimum Prices for District 22 for All Shipments;

Temporary relief having been granted in this matter;

Pursuant to an Order of the Director and after due notice to all interested parties, a hearing having been held in this matter before a duly designated Examiner of the Division in Salt Lake City, Utah, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise to be heard;

The parties having waived the preparation and filing of an Examiner's Report;

The undersigned having made Findings of Facts, Conclusions of Law and having rendered an opinion herein, which are filed herewith.[1]

Now, therefore, it is ordered, That the description of Size Group 13 in § 342.2 (*Size Group table*) in the Schedule of Effective Minimum Prices for District No. 22 for All Shipments should be and is hereby amended to read, as follows:

	Maximum top screen opening	Maximum bottom screen opening
Prepared railroad fuel	6″ 1¼″	1⅝″ ¾″

And it is further ordered, That § 342.5 (*General prices; minimum prices for shipment via rail transportation*) in the Schedule of Effective Minimum Prices for District No. 22 for All Shipments is further amended by deleting from the section on "Railroad Locomotive Fuel" for Subdistrict No. 2 the designation "Smith & #2 Mines" and insert in lieu thereof "Smith No. 1 and Foster Creek No. 3 (Eagle) Mines."

And it is further ordered, That the effective minimum price f. o. b. the mine for Size Group 13 coal produced at the Smith No. 1 and Foster Creek No. 3 (Eagle) Mines of the Montana Coal & Iron Co., in Subdistrict No. 2 be $1.85 per ton and § 342.5 (*General prices; minimum prices for shipment via rail transportation*) in the Schedule of Effective Minimum Prices for District No. 22 for All Shipments is hereby amended accordingly.

And it is further ordered, That the relief requested by the petition herein is granted to the extent above indicated and is in all other respects denied.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7489; Filed, October 7, 1941; 10:14 a. m.]

[1] Not filed as part of the original document.

[Docket No. A-500]

PART 343—MINIMUM PRICE SCHEDULE, DISTRICT NO. 23

ORDER GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 23 FOR THE MODIFICATION OF EFFECTIVE MINIMUM PRICES ESTABLISHED FOR COALS PRODUCED IN SUBDISTRICT "A" OF DISTRICT NO. 23 IN SIZE GROUP NO. 10 FOR RAIL AND TRUCK SHIPMENT INTO ALL MARKET AREAS

An original petition having been filed with the Bituminous Coal Division, pursuant to section 4, II (d) of the Bituminous Coal Act of 1937, seeking the establishment of minimum prices for coals of the mines in Subdistrict "A" of District No. 23, in Size Group 10, for rail shipment; and the establishment of minimum prices, for coals of certain mines in Subdistrict "A" of District No. 23 in Size Group 10, for shipment by truck;

A hearing having been held before a duly designated Examiner of the Division in Seattle, Washington; the parties to this proceeding having waived the preparation and filing of a report by the Examiner;

The undersigned having made Findings of Fact and Conclusions of Law, and having rendered an opinion in this matter, which are filed herewith;[1]

Now, therefore, it is ordered, That the relief prayed for by the original petitioner be granted as follows: Commencing forthwith § 343.5 (*General prices; minimum prices for shipment via rail transportation*), and § 343.21 (*General prices*) in the Schedule of Effective Minimum Prices for District No. 23, for All Shipments, are hereby amended by insertion of the following effective minimum prices:

§ 343.5 *Shipment via rail.*

	3" x 1¼" Size group
Subdistrict "A" Roslyn, market areas	10
238	460
243	460
251	460
252	425
All other market areas	460

§ 343.21 *Truck shipments:*

	3" x 1¼" Size group
Subdistrict "A" Roslyn	10
Northwestern Improvement Co.: Roslyn Mines Nos. 3, 5, and 9	510
Roslyn—Cascade Coal Co., Roslyn—Cascade Mine	510

Dated: October 3, 1941

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41-7494; Filed, October 7, 1941; 10:15 a. m.]

[1] Not filed as part of the original document.

[Dockets Nos. A-76 and A-161]

PART 343—MINIMUM PRICE SCHEDULE, DISTRICT NO. 23

ORDER GRANTING FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 23 FOR REVISION OF MINIMUM PRICES APPLICABLE TO THE COALS OF SUBDISTRICT "C" SOUTHWEST WASHINGTON AND TO THE COALS OF THE STRAIN COAL COMPANY; AND, ORDER GRANTING FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 23 FOR REVISION OF EFFECTIVE MINIMUM PRICES APPLICABLE TO THE COALS OF THE NORTHWESTERN IMPROVEMENT COMPANY

These proceedings, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been instituted upon petitions filed with the Bituminous Coal Division by the Bituminous Coal Producers Board for District No. 23[2] seeking the issuance of orders extending minimum prices applicable to coals in Size Group 26 to all coals sold for railroad use and further seeking modification of the minimum prices applicable to the coals produced at the Newcastle Mine, Mine Index No. 22, of the Strain Coal Company located in Subdistrict F, Renton, of District No. 23;

Pursuant to an order of the Director and after due notice of all interested persons, a hearing in these matters having been held before Thurlow G. Lewis, a duly designated Examiner of the Bituminous Coal Division, in a hearing room of the Division in Seattle, Washington; all interested parties having been afforded an opportunity to participate fully in the hearing; appearances having been entered at the hearing by District Board No. 23 and by the Consumers' Counsel Division, and in Docket A-76 by the Bucoda Coal Company, a code member in District No. 23, and in Docket No. A-161 by the Northern Pacific Railway Company; the preparation and filing or an Examiner's Report having been waived and the matters thereupon having been submitted to the undersigned;

The undersigned having made and entered Findings of Fact and Conclusions of Law and rendered an Opinion in this matter, which are filed herewith; [1]

Now, therefore, it is ordered, That § 343.5 (*General prices; minimum prices for shipment via rail transportation*), and § 343.21 (*General prices*) in the Schedule of Effective Minimum Prices for District No. 23 for All Shipments be and they hereby are amended as follows:

1. § 343.5 *General prices; minimum prices for shipment via rail transportation.* The description of Size Group 26 shall read "Railroad Fuel All Sizes";

2. § 343.5 *General prices; minimum prices for shipment via rail transportation.* Footnote "1" reading "Subdistrict 'A' prices in Size Group 26 apply for mines of the Northwestern Improvement Company only" should be deleted from the Price Schedule;

3. § 343.21 *General prices.* Minimum prices applicable to the coals of the Strain Coal Company's Newcastle Mine, Mine Index No. 22, in all size groups, for shipment by truck into all market areas, be uniformly reduced 25 cents per ton; and

It is further ordered, That the requests for relief herein are granted to the extent set forth above and are in all other respects denied.

Dated: October 4, 1941.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41-7491; Filed, October 7, 1941; 10:14 a. m.]

[2] The dockets herein were consolidated for the purpose of decision because of the similarity of the relief requested.

[Docket No. A-556]

PART 344—COMMON CONSUMING MARKET AREAS

ORDER GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF THE BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 19 FOR AN ENLARGEMENT OF THE IDAHO PORTION OF MARKET AREA 216 BY EXTENDING THE BOUNDARIES THEREOF TO INCLUDE GEORGETOWN, IDAHO

A petition pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been filed with the Bituminous Coal Division by the Bituminous Coal Producers Board for District No. 19, seeking extension of the boundaries of Market Area 216 to include Georgetown, Idaho;

A hearing having been held, pursuant to order and after due notice to all interested parties, before Thurlow G. Lewis, a duly designated Examiner of the Division, at a hearing room in Denver, Colorado;

The Director having made Findings of Fact and Conclusions of Law and having rendered an opinion in this matter which are filed herewith; [1]

It is ordered, That the relief prayed for by petitioner be and the same is hereby granted as follows:

Description of the Idaho portion of Market Area 216, as defined in § 344.216 (*Market Area No. 216—(a) Idaho*) *in the* Schedule of Common Consuming Market

Areas, established in connection with Effective Minimum Prices, pursuant to Section 4, Part II of the Bituminous Coal Act of 1937, is hereby amended to read as follows:

Idaho. All points on the Union Pacific R. R. from the Wyoming State line to and including Georgetown and including the Ovid-Paris Branch.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7493; Filed, October 7, 1941; 10:15 a. m.]

TITLE 31—MONEY AND FINANCE

CHAPTER I—MONETARY OFFICES

[1941, Dept. Circ. No. 1]

PART 129—VALUES OF FOREIGN MONEYS

OCTOBER 1, 1941.

§ 129.4 *Calendar year 1941.*

* * * * * * *

(d) *Quarter beginning October 1, 1941.* Pursuant to section 522, title IV, of the Tariff Act of 1930, reenacting section 25 of the act of August 27, 1894, as amended, the following estimates by the Director of the Mint of the values of foreign monetary units are hereby proclaimed to be the values of such units in terms of the money of account of the United States that are to be followed in estimating the value of all foreign merchandise exported to the United States during the quarter beginning October 1, 1941, expressed in any such foreign monetary units: *Provided, however,* That if no such value has been proclaimed, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate in the New York market at noon on the day of exportation, conversion shall be made at a value measured by such buying rate, as determined and certified by the Federal Reserve Bank of New York and published by the Secretary of the Treasury pursuant to the provisions of section 522, title IV, of the Tariff Act of 1930.

[SEAL]

D. W. BELL,
Acting Secretary of the Treasury.

Values of foreign monetary units

[At par as regards gold units, nongold units have no fixed par with gold]

Country	Monetary unit	Value in terms of U. S. money	Remarks
Argentine Republic	Peso	$1. 6335	Given valuation is of gold peso. Paper nominally convertible at 44% of face value. Conversion suspended Dec. 16, 1929.
Australia	Pound	8. 2397	Control of gold stocks and exports authorized Dec. 17, 1929.
Belgium	Belga	.1695	By decree of Mar. 31, 1936. One belga equals 5 Belgian francs. The Anglo-Belgian financial agreement of June 7, 1940, fixed the rate of exchange of the Belgian franc and the franc of the Belgian Congo at 176.625 francs for £1 sterling.
Bolivia	Boliviano	.6180	Conversion of notes into gold suspended Sept. 23, 1931.
Brazil	Milreis	.0606	Based upon official rate for milreis in terms of the dollar as announced by the Bank of Brazil. Conversion of Stabilization-Office notes into gold suspended Nov. 22, 1930.

Values of foreign monetary units—Continued

Country	Monetary unit	Value in terms of U. S. money	Remarks
British Honduras	Dollar	1. 6931	Conversion of notes suspended.
Bulgaria	Lev	.0122	Exchange control established Oct. 15, 1931.
Canada	Dollar	1. 6931	Embargo on export of gold, Oct. 19, 1931; redemption of Dominion notes in gold suspended Apr. 10, 1933.
Chile	Peso	.2060	Given valuation is of gold peso. Gold pesos are received for conversion at the rate of 4 paper pesos for one gold peso. Conversion of notes suspended July 30, 1931.
China	Yuan		Silver standard abandoned by decree of Nov. 3, 1935; bank notes made legal tender under Currency Board control; exchange rate for British currency primarily fixed at about 1 s. 2½d., or about 29½¢ U. S., per yuan.
Hong Kong	Dollar		Treasury notes and notes of the three banks of issue made legal tender by silver nationalization ordinance of Dec. 5, 1935; exchange fund created to control exchange rate.
Colombia	Peso	.5714	Obligation to sell gold suspended Sept. 24, 1931. New gold content of .56424 grams of gold 9/10 fine established by monetary law of Nov. 19, 1938, effective Nov. 30, 1938.
Costa Rica	Colon	.7879	Conversion of notes into gold suspended Sept. 18, 1914; exchange control established Jan. 16, 1932.
Cuba	Peso	1. 0000	By law of May 25, 1934.
Czechoslovakia	Koruna		
Denmark	Krone	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Dominican Republic	Dollar	1. 6931	U. S. money is principal circulating medium.
Ecuador	Sucre	.3386	Conversion of notes into gold suspended Feb. 9, 1932.
Egypt	Pound (100 piasters)	8. 3692	Conversion of notes into gold suspended Sept. 21, 1931.
Estonia	Kroon	.4537	Conversion of notes into gold suspended June 28, 1933.
Finland	Markka	.0426	Conversion of notes into gold suspended Oct. 12, 1931.
France	Franc		Provisions of monetary law of Oct. 1, 1936, providing for gold content of franc, superseded by decree of June 30, 1937, which stated that the gold content of the franc shall be fixed ultimately by a decree adopted by the Council of Ministers. Until issuance of such decree a stabilization fund shall regulate the relationship between the franc and foreign currencies.
Germany	Reichsmark	.4033	Exchange control established July 13, 1931.
Great Britain	Pound Sterling	8. 2397	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Greece	Drachma	.0220	Conversion of notes into gold suspended Apr. 26, 1932.
Guatemala	Quetzal	1. 6931	Conversion of notes into gold suspended Mar. 6, 1933.
Haiti	Gourde	.2000	National bank notes redeemable on demand in U. S. dollars.
Honduras	Lempira	.8466	Gold exports prohibited Mar. 27, 1931; lempira circulates as equivalent of half of U. S. dollar.
Hungary	Pengö	.2961	Exchange control established July 17, 1931.
India [British]	Rupee	.6180	Obligation to sell gold at legal monetary par suspended Sept. 21, 1931.
Indo-China	Piaster		Piaster pegged to French franc at the rate of 1 piaster =10 French francs; conversion of notes into gold suspended Oct. 2, 1936.
Ireland	Pound	8. 2397	Conversion of notes into gold suspended Sept. 21, 1931.
Italy	Lira	.0526	New gold content of 46.77 milligrams of fine gold per lira established by monetary law of Oct. 5, 1936.
Japan	Yen	.8440	Embargo on gold exports Dec. 13, 1931.
Latvia	Lat		Currency pegged to sterling Sept. 28, 1936, at 2,522 lati=£100; on Sept. 13, 1939, a law was passed providing that if the pound sterling should depreciate by more than 5 percent with respect to the United States dollar, or the Swedish krona, the Bank of Latvia shall take steps to keep the rate of exchange of the lat stable by basing it on gold or some other monetary unit.
Liberia	Dollar	1. 6931	British money is principal circulating medium.
Lithuania	Litas	.1693	Free export of gold suspended Oct. 1, 1935.
Mexico	Peso		Decree of Aug. 28, 1936, left the monetary unit, the peso, to be later defined by law.

Values of foreign monetary units—Continued

Country	Monetary unit	Value in terms of U. S. money	Remarks
Netherlands and colonies	Guilder (florin)	.6806	Suspension of convertibility of notes into gold and restrictions placed on free gold exports—Sept. 26, 1936; gold export prohibition repealed by decree June 28, 1938; prohibition restored by Act of Nov. 25, 1938. The Anglo-Netherlands financial agreement of June 14, 1940, established the official rate of exchange between the Netherlands Indies guilder and the pound sterling at 7.60 guilders for £1 sterling. By act of Sept. 20, 1940, the Netherlands Indies Volksraad decided, subject to later ratification by law, that the Java Bank shall fix the value of its stocks of gold coin and bullion at Fl. 2,121 per kilogram fine.
Newfoundland	Dollar	1.6931	Newfoundland and Canadian notes legal tender.
New Zealand	Pound	8.2397	Conversion of notes into gold suspended and export of gold restricted, Aug. 5, 1914; exchange regulations Dec. 1931.
Nicaragua	Cordoba	1.6933	Embargo on gold exports Nov. 13, 1931.
Norway	Krone	.4537	Conversion of notes into gold suspended Sept. 20, 1931.
Panama	Balboa	1.0000	U. S. money is principal circulating medium.
Paraguay	Peso (Argentine)	1.6335	Paraguayan paper currency is used: exchange control established June 28, 1932.
Persia (Iran)	Rial	.0824	Obligation to pay out gold deferred Mar. 13, 1932; exchange control established Mar. 1, 1936.
Peru	Sol	.4740	Conversion of notes into gold suspended May 18, 1932.
Phillippine Islands	Peso	.5000	By act approved Mar. 16, 1935.
Poland	Zloty	.1899	Exchange control established Apr. 27, 1936.
Portugal	Escudo	.0749	Gold exchange standard suspended Dec. 31, 1931.
Rumania	Leu	.0101	Exchange control established May 18, 1932.
Salvador	Colon	.8466	Conversion of notes into gold suspended Oct. 7, 1931.
Spain	Peseta		
Straits Settlements	Dollar	.9613	British pound sterling and Straits dollar and Canadian dollar legal tender.
Sweden	Krona	.4537	Conversion of notes into gold suspended Sept. 29, 1931.
Switzerland	Franc		Order of Federal Council enacted Sept. 27, 1936, instructed the Swiss National Bank to maintain the gold parity of the franc at a value ranging between 190 and 215 milligrams of fine gold.
Thailand (Siam)	Baht (Tical)	.7491	Conversion of notes into gold suspended May 11, 1932.
Turkey	Piaster	.0744	100 piasters equal to the Turkish £; conversion of notes into gold suspended 1916; exchange control established Feb. 26, 1930.
Union of South Africa	Pound	8.2397	Conversion of notes into gold suspended Dec. 28, 1932.
Union of Soviet Republics	Chervonetz	8.7123	
Uruguay	Peso	.6583	Conversion of notes into gold suspended Aug. 2, 1914; exchange control established Sept. 7, 1931. New gold content of .585018 grams of pure gold per peso established by monetary law of Jan. 12, 1938.
Venezuela	Bolivar	.3267	Exchange control established Dec. 12, 1936.
Yugoslavia	Dinar	.0298	Exchange control established Oct. 7, 1931.

(Sec. 25, 28 Stat. 552; sec. 403, 42 Stat. 17; sec. 522, 42 Stat. 974; sec. 522, 46 Stat. 739; 31 U.S.C. 372)

[F. R. Doc. 41-7470; Filed, October 6, 1941; 3:48 p. m.]

TITLE 32—NATIONAL DEFENSE

CHAPTER VI—SELECTIVE SERVICE SYSTEM

Order Authorizing the State Director of Selective Service of West Virginia to Order Additional or Alternative Physical Examinations

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of section XLVIII of the Selective Service Regulations, I hereby authorize the State Director of Selective Service of West Virginia to direct any local board in the State of West Virginia to order registrants to appear for and submit to a physical examination by an Examining Board of the armed forces, either in addition to or in lieu of the physical examination provided for in Volume Three, "Classification and Selection."

In proceeding under this authorization, the State Director of Selective Service of West Virginia will be guided by the provisions of section XLVIII of the Selective Service Regulations. The right of all registrants to an appeal shall be preserved and no registrant shall be ordered to report for induction on less than 10 days' notice, as provided in Paragraph 415 of the Selective Service Regulations, as amended.

The State Director of Selective Service of West Virginia shall submit to the Director of Selective Service copies of plans, forms, and directives prescribed for use by him in carrying out this authorization.

LEWIS B. HERSHEY,
Director.

OCTOBER 6, 1941.

[F. R. Doc. 41-7501; Filed, October 7, 1941; 10:42 a. m.]

Order Authorizing the State Director of Selective Service of Kentucky to Order Additional or Alternative Physical Examinations

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of section XLVIII of the Selective Service Regulations, I hereby authorize the State Director of Selective Service of Kentucky to direct any local board in the State of Kentucky to order registrants to appear for and submit to a physical examination by an Examining Board of the armed forces, either in addition to or in lieu of the physical examination provided for in Volume Three, "Classification and Selection."

In proceeding under this authorization, the State Director of Selective Service of Kentucky will be guided by the provisions of section XLVIII of the Selective Service Regulations. The right of all registrants to an appeal shall be preserved and no registrant shall be ordered to report for induction on less than 10 days' notice, as provided in paragraph 415 of the Selective Service Regulations, as amended.

The State Director of Selective Service of Kentucky shall submit to the Director of Selective Service copies of plans, forms, and directives prescribed for use by him in carrying out this authorization.

LEWIS B. HERSHEY,
Director.

OCTOBER 6, 1941.

[F. R. Doc. 41-7502; Filed, October 7, 1941; 10:43 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

CHAPTER II—CORPS OF ENGINEERS, WAR DEPARTMENT

Part 203—Bridge Regulations [1]

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), paragraph (b) (3) of § 203.130 *Bridge Regulations*, is hereby amended to read as follows:

§ 203.130 *Poquonock River, Yellow Mill Channel, and Johnsons River, Conn.; bridges (highway and railroad) at Bridgeport, Conn.*

* * * * *

(b) (3) For vessels of any class, except when an emergency condition exists, such emergency to be decided mutually by the Superintendent of Bridges, or his authorized representative, and navigation interests involved, and is provisionally defined as the passage of boats that are unavoidably compelled to pass through the bridges during the period due to urgency of service or condition of tide: 4:30 p. m. to 6:10 p. m. (Sec. 5, River and Harbor Act, Aug. 18, 1894, 28 Stat. 362; 33 U.S.C. 499) [Regs. Feb. 19, 1935, as amended by Regs. Sept. 27, 1941

[1] § 203.130 (b) (3) is amended.

(E.D. 6371 (Bridgeport (Conn.)—Poquonock River—Stratford Avenue—¾)]

* * * * *

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 41-7511; Filed, October 7, 1941; 11:52 a. m.]

TITLE 35—PANAMA CANAL

CHAPTER I—CANAL ZONE REGULATIONS

PART 4—OPERATION AND NAVIGATION OF PANAMA CANAL AND ADJACENT WATERS

1. Section 4.42 of Title 35, Code of Federal Regulations, is amended to read as follows:

§ 4.42 *Chocks and bitts.* For each towing wire used the ship shall be fitted with a heavy closed chock and a heavy pair of bitts, capable of withstanding a strain of 50,000 pounds of the towing wire at any angle, and a straight clear lead shall be provided from each chock to securing bitts. The most suitable installations for the bow and stern towing chocks are large chocks set thwartships right in the stem and stern respectively. These to be doubled the size and strength given above. Both bow wires and both stern wires are run through such chocks. For 6-locomotive ships there shall be a chock on each side forward amidships, and for 8-locomotive ships, two additional chocks on each side, one about one-third the ship's length abaft the bow and the other the same distance forward of the stern. (Rule 41, E.O. 4314, Sept. 25, 1925; 35 CFR 4.40) [Reg. 41.2, Regs. Gov., Sept. 17, 1941]

2. Section 4.90a of Title 35, Code of Federal Regulations, is hereby added, reading as follows:

§ 4.90a *Lights for ferry boats.* Ferry boats shall carry the range lights and the colored side lights required for self-propelled vessels 65 feet or more in length, as described in Rule 63; except that *double-end ferry boats* shall carry a central range of clear, bright, white lights showing all around the horizon, placed at equal altitudes forward and aft, also on the starboard side a green light, and on the port side a red light, of such a character as to be visible on a dark night with a clear atmosphere at a distance of at least two miles, and so constructed as to show a uniform and unbroken light over an arc of the horizon of 10 points of the compass, and so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides. (Rule 9, E.O. 4314, Sept. 25, 1925; 35 CFR 4.11) [Reg. 74-2, Regs. Gov., Sept. 17, 1941]

3. Section 4.90b of Title 35, Code of Federal Regulations, is hereby added, reading as follows:

§ 4.90b *Lights for self-propelled suction dredges under way with their suction on the bottom.* Self-propelled suction dredges under way with their suction on the botttom shall display by day two black balls not less than 2 feet in diameter and carried not less than 15 feet above the deck house and so placed to be visible all around the horizon.

By night they shall carry, in addition to the regular running lights, two red lights of the same character as the masthead light, the red lights to be not less than 3 feet nor more than 6 feet apart and the upper red light to be not less than 4 feet and not more than 6 feet below the white masthead light, and on or near the stern two red lights in the same vertical plane not less than 4 feet nor more than 6 feet apart, to show through 4 points of the compass; i. e. from right astern to 2 points on each quarter. (Rule 9, E.O. 4314, Sept. 25, 1925; 35 CFR 4.11) [Reg. 74.3, Regs. Gov., Sept. 17, 1941]

4. The regulations amended and added as aforesaid shall be effective as to all vessels arriving in the Canal Zone on or after January 1, 1942.

GLEN E. EDGERTON,
Governor.

[F. R. Doc. 41-7503; Filed, October 7, 1941; 10:21 a. m.]

TITLE 36—PARKS AND FORESTS

CHAPTER I—NATIONAL PARK SERVICE

PART 3—NATIONAL CAPITAL PARK REGULATIONS

AMENDMENT

Pursuant to the authority contained in the Act of February 26, 1925 (ch. 339, 43 Stat. 983), and Executive Order No. 6166 of June 10, 1933, § 3.11 (v)[1] is amended to read as follows:

§ 3.11 *Traffic and motor vehicle regulations; horses; penalties.*

* * * * *

(v) The speed limits prescribed by sec. 22 (c) of the Traffic and Motor Vehicle Regulations for the District of Columbia shall not apply to vehicles operated on any highway in the National Capital Park system in the District of Columbia. In lieu thereof, a maximum speed limit of 40 miles per hour is established for all highways in the National Capital Park system in the District of Columbia, except where otherwise designated by official signs.

[SEAL] JOHN J. DEMPSEY,
Acting Secretary of the Interior.

Approved: September 26, 1941,

FRANKLIN D. ROOSEVELT,
The White House.

[F. R. Doc. 41-7495; Filed, October 7, 1941; 10:17 a. m.]

[1] 5 F.R. 4142.

PART 3—NATIONAL CAPITAL PARK REGULATIONS

AMENDMENT

Part 3 is amended by adding § 3.12 reading as follows:

§ 3.12 *George Washington Memorial Parkway; commercial passenger-carrying vehicles; permits; fees.* (a) All persons, firms, or corporations operating passenger-carrying vehicles for hire or compensation, excepting taxicabs licensed in the District of Columbia, Maryland, or Virginia, upon any portion of the George Washington Memorial Parkway between the south end of Arlington Memorial Bridge and Mount Vernon, must procure a permit, issued on an annual basis, effective from April 1 until the following March 31, at the rate of $3 for each seat in every vehicle so operated.

(b) A quarterly permit may be procured for a fee of 75 cents for each passenger-carrying seat in such vehicles. A quarterly permit may be effective for quarterly increments.

(c) Permits for operation of any such vehicles on the Parkway for a single day may be procured at the rate of $1 per vehicle per day. (Sec. 3, 43 Stat. 983, 40 U.S.C. 4; EO. 6166, June 10, 1933)

[SEAL] HAROLD L. ICKES,
Secretary of the Interior.

Approved September 25, 1941,

FRANKLIN D ROOSEVELT
The White House.

[F. R. Doc. 41-7496; Filed, October 7, 1941; 10:17 a. m.]

TITLE 41—PUBLIC CONTRACTS

CHAPTER II—DIVISION OF PUBLIC CONTRACTS

PART 202—MINIMUM WAGE DETERMINATIONS

IN THE MATTER OF THE DETERMINATION OF THE PREVAILING MINIMUM WAGES IN THE PAINT AND VARNISH INDUSTRY

This matter is before me pursuant to section 1 (b) of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. Sup. III 35) entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", otherwise known as the Walsh-Healey Public Contracts Act and hereinafter referred to as the Act.

Notice of the hearing in this matter was published in the FEDERAL REGISTER (5 F.R. 3757) and was sent to interested parties, to trade unions, to trade publications, and to trade associations in the field. Publication was also sought in the national press. Hearing was had before the Public Contracts Board in Washington, D. C., on October 3, 1940.

Appearances were made and testimony was given at the hearing by members of the industry, by the American Federation of Labor, and by the National Paint, Varnish, and Lacquer Association.

A wage survey tabulated by the Research Section of the Division of Public Contracts on information voluntarily submitted by members of the industry through the National Paint, Varnish, and Lacquer Association was introduced in evidence. The survey as supplemented covered 14,464 employees in 392 plants as of June 1940. The plants were located in 33 states. A comparison between the survey and the Census of Manufactures for 1937 shows that the tabulation covers about 40 percent of the employees in the industry and is representative both as to size of establishments and number of employees and that it covers all states which are significant producers of paint and varnish.

Upon consideration of all the evidence in the case the Public Contracts Board recommended that the prevailing minimum wage for the Paint and Varnish Industry be found to be 30 cents an hour for the states of Virginia, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Arkansas, and 50 cents an hour for all the other states of the United States and the District of Columbia.

On August 22, 1941 when the entire record was presented formally for consideration I issued notice to the effect that I intended to follow the Board's recommendation except as to the minimum of 30 cents an hour for the states of Virginia, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Arkansas. My proposal was predicated on facts appearing of record that the manufacturers in these states were not producing for the government any significant amount of paint. The proposal has met with certain objections by way of briefs, particularly to the effect that southern manufacturers are in a position to contribute to the national needs for paint. I am satisfied that this is the situation and that therefore the wages for the southern states enumerated must be determined in accordance with the prevailing standards in the localities.

The evidence indicates that the low wage occupation in this industry is that of unskilled laborers such as handymen, loaders, unloaders, laborers, and the like. With the exception of the wage variations between the southern states enumerated and the other states of the United States, existing variations in wages are greater within limited political entities than in broad geographic areas. As the Board has pointed out, the most conspicuous single minimum that is paid in the plants in the states other than the southern states enumerated is 50 cents an hour. Evidence of this prevalence is found in the fact that 686 employees out of a total of 14,164 in the states other than the southern states enumerated are concentrated in the bracket from 50 to 51 cents an hour. The survey shows that 4½ percent of the employees are concentrated in this single one-cent interval. At no point below 50 cents is there any concentration approachig this percentage. I find that the Board's recommendation of 50 cents an hour is proper.

The wage tabulation introduced in evidence indicates that in the group of southern states enumerated there is a pronounced concentration of employees in the bracket from 30 to and including 40 cents; in fact, approximately 55 percent of all employees are found in this bracket. This concentration doubtlessly represents the concentration of unskilled workers in the industry. The fact that in these states at exactly 40 cents 16.7 percent of all the productive employees are concentrated indicates that the wage most commonly paid in these states to unskilled workers is 40 cents. For this reason I have rejected the Board's recommendation of 30 cents an hour and have found the prevailing minimum in the southern states enumerated to be 40 cents an hour.

I hereby determine:

§ 202.41 *Paint and varnish industry.* The Paint and Varnish Industry, as that term is used in this decision, shall be understood to be that industry which manufactures pigments or colors, either in dry or paste form; paints mixed ready for use or in dry or paste form; varnishes, lacquers, enamels; fillers, putty, top dressings; paint and varnish removers; furniture and floor wax; and lacquer thinners.

The prevailing minimum wages for persons employed in the performance of contracts with agencies of the United States Government, subject to the provisions of the Act of June 30, 1936 (49 Stat. 2036; 41 U.S.C. Sup. III 35) for the manufacture and furnishing of the products of the Paint and Varnish Industry, shall be 40 cents an hour or $16.00 per week of forty hours, arrived at either upon a time or piece work basis, for the states of Virginia, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, Louisiana, and Arkansas; and 50 cents an hour or $20.00 per week of forty hours, arrived at either upon a time or piece work basis, for all other states of the United States and the District of Columbia. (Sec. 1 (b), 49 Stat. 2036; 41 U.S.C., Sup., 35 (b))

This determination shall be effective and the minimum wages hereby established shall apply to all contracts subject to the aforesaid Act of June 30, 1936, bids for which are solicited or negotiations otherwise commenced on and after November 6, 1941.

Nothing in this determination shall effect such obligations for the payment of minimum wages as an employer may have under the Fair Labor Standards Act of 1938 or any wage order thereunder, or under any other law, or agreement, more favorable to employees than the requirements of this determination.

Dated: October 6, 1941.

FRANCES PERKINS,
Secretary.

[F. R. Doc. 41-7509; Filed, October 7, 1941; 11:42 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

CHAPTER II—BUREAU OF RECLAMATION

[No. 22]

PART 402—ANNUAL WATER CHARGES[1]

RIVERTON IRRIGATION PROJECT[2]

SEPTEMBER 23, 1941.

1. *Water rental.* Irrigation water, when available, will be furnished upon a rental basis under approved applications for temporary water service during the irrigation season of 1942 and thereafter until further notice to those lands in private ownership and to those public lands opened under the orders "opening public land to entry" dated March 3, 1926; November 9, 1926; March 23, 1931; May 2, 1932; January 31, 1933; and October 30, 1939; against *which assessments for water rental were not levied by the Midvale Irrigation District in 1941.*

2. *Charges and terms of payment.* The minimum water-rental charge for the irrigation season of 1942 and thereafter until further notice will be one dollar ($1.00) per acre for each irrigable acre of land for which application has been or is hereafter made which will entitle the applicant to two (2.0) acre-feet of water, or so much thereof as may be necessary for beneficial use, for said season. Payment of the minimum charge shall be made for the entire irrigable area of each farm unit of public land entered under orders "opening public land to entry" dated March 3, 1926; November 9, 1926; March 23, 1931; May 2, 1932; January 31, 1933; and October 30, 1939; and for the entire irrigable area in each 40-acre subdivision of private land entitled to water for which application has been made or is hereafter made. Said minimum charge will be made against each acre of irrigable land whether or not water is used; shall be paid in advance on or before May 1, 1942, and no part of said charge will be refunded. Additional water if available will be furnished during said irrigation season at the rate of one dollar ($1.00) per acre-foot, payable on December 1, 1942. When water-rental application is submitted and approved after June 15, 1942, for public land entered under the reclamation law and after August 1, 1942, for land in private

[1] Act of June 17, 1902, 32 Stat., 388, as amended and supplemented.

[2] Affects tabulation in § 402.2d *Table of annual water charges announced by public notice.*

ownership, the minimum charge shall apply as a credit on the minimum charge for the following irrigation season. All water-rental charges under this notice should be paid to the Bureau of Reclamation, Riverton, Wyoming.

3. *Penalty for nonpayment.* If payment of the minimum charge be not made on or before May 1, 1942, and payment for additional water furnished be not made on or before December 1, 1942, as herein provided; there shall be added to the amount unpaid a penalty of one-half of one per centum thereof on the first day of the third calendar month thereafter, and there shall be added a like penalty of one-half of one per centum on the first day of each month thereafter so long as such default shall continue, and no water shall be delivered to the owner or entryman in subsequent years until all such charges and penalties have been paid in full.

JOHN J. DEMPSEY,
Under Secretary.

[F. R. Doc. 41-7498; Filed, October 7, 1941; 10:18 a. m.]

CHAPTER III—GRAZING SERVICE

PART 502—LIST OF ORDERS CREATING AND MODIFYING GRAZING DISTRICTS

MODIFICATION OF NEVADA GRAZING DISTRICTS NOS. 4 AND 5 [1]

Under and pursuant to the authority vested in me by the provisions of the act of June 28, 1934 (48 Stat. 1269, 43 U. S. Code, sec. 315 *et seq.*), as amended, commonly known as the Taylor Grazing Act, the lands within the following-described boundaries, now embraced within Nevada Grazing District No. 4, are hereby excluded from Grazing District No. 4, and added to Nevada Grazing District No. 5:

NEVADA

MOUNT DIABLO MERIDIAN

Beginning at the southeast corner of sec. 8, T. 1 N., R. 66 E.;
Thence easterly on section lines to the intersection with the east boundary of the State of Nevada in T. 1 N., R. 71 E.;
Thence southerly along the east boundary of the State of Nevada to the southeast corner of T. 4 S., R. 71 E.;
Thence west along the First Standard Parallel South to the southwest corner of T. 4 S., R. 66 E.;
Thence northerly to the northwest corner of T. 3 S., R. 66 E.;
Thence easterly to a point for the corner of secs. 3, 4, 33, and 34, Tps. 2 and 3 S., R. 66 E.;
Thence northerly to the point for the closing corner of secs. 3 and 4, T. 1 S., R. 66 E., on the Mount Diablo Base Line;
Thence west to the southwest corner of sec. 33, T. 1 N., R. 66 E.;
Thence northerly to the southeast corner of sec. 8 and the place of beginning.

JOHN J. DEMPSEY,
Acting Secretary of the Interior.

SEPTEMBER 23, 1941.

[F. R. Doc. 41-7497; Filed, October 7, 1941; 10:17 a. m.]

[1] Affects tabulation in § 502.1d.

Notices

WAR DEPARTMENT.

[Contract No. W 669 qm-12929; O. I. No. 775]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: UNITED STATES RUBBER COMPANY, MISHAWAKA, INDIANA

Contract for: Raincoats, Rubberized, Single Texture.

Amount: $2,671,120.00.

Place: Philadelphia Quartermaster Depot, Philadelphia, Pa.

This contract, entered into this fifteenth day of August 1941.

Scope of this contract. The contractor shall furnish and deliver * * * Raincoats, Rubberized, Single Texture, Olive Drab, for the consideration stated totaling two million, six hundred seventy-one thousand, one hundred twenty dollars ($2,671,120.00) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

Delays—Damages. If the contractor refuses or fails to make delivery of acceptable material or supplies within the time or times specified in Article 1; or any extension or extensions thereof, the actual damage to the Government for the delay will be impossible to determine, and in lieu thereof the contractor shall pay to the Government as fixed, agreed, and liquidated damages for each calendar day of delay in the delivery of any articles, the amount set forth in the specifications or accompanying papers, and the contractor and his sureties shall be liable for the amount thereof.

Liquidated damages. Under the terms and conditions stipulated in Article 17 of this contract, the contractor shall pay to the Government as liquidated damages, for each calendar day of delay in the delivery of any article, a sum equal to * * * percentum of the price of such article for each day's delay after the time specified for delivery.

Bond: Furnished, $534,224.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to procurement authority QM 323 P2-02 A 0515-2 the available balance of which is sufficient to cover cost of same.

This contract authorized under Procurement Directive No. P-C-107 (42) Awarded under the authority of Section 1 (a) of the Act of July 2, 1940, (Public No. 703, 76th Congress, as continued in effect by Section 9, Public No. 139—77th Congress).

FRANK W. BULLOCK,
Lieut. Col., Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-7504; Filed, October 7, 1941; 10:19 a. m.]

[Contract No. W 303 ord-965]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: THE GLOBE MACHINE & STAMPING COMPANY, CLEVELAND, OHIO

Contract for: Case, Cartridge, * * *

Amount: $1,137,500.00.

Place: Cleveland Ordnance District, 1450 Terminal Tower, Cleveland, Ohio.

The supplies to be obtained by this instrument are authorized by, are for the purposes set forth in, and are chargeable to Procurement Authority ORD 15,185 P11-02 A (1005) .105-01, the available balance of which is sufficient to cover cost of same.

This contract, entered into this 1st day of July 1941.

Scope of this contract. The contractor shall furnish and deliver * * * Case, Cartridge * * * for the consideration one million one hundred thirty-seven thousand, five hundred dollars and no cents ($1,137,500.00) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Changes. Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications.

Changes as to shipment and packing of all supplies may also be made as above provided.

Delays—Damages. If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Payments will be made on partial deliveries accepted by the Government when requested by the contractor whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

Quantities. The Government reserves the right to increase the quantity on this contract by as much as * *% and at the unit price specified in Article 1, such option to be exercised within * * * days from date of this contract.

Termination when contractor not in default. This contract is subject to termination by the Government at any time as its interests may require.

This contract is authorized by the Act of July 2, 1940, Public 703, 76th Congress.

FRANK W. BULLOCK,
Lt. Col., Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-7505; Filed, October 7, 1941; 10:19 a. m.]

[Contract No. W-398 qm-2; O. I. # 2]

SUMMARY OF CONTRACT OF SUPPLIES

CONTRACTOR: DIAMOND T MOTOR CAR COMPANY, WEST 26TH STREET, CHICAGO, ILLINOIS

Contract for: Trucks * * *.
Amount: $2,028,983.40.
Place: Holabird Quartermaster Depot, Baltimore, Maryland.

This contract, entered into this 5th day of June 1941.

Scope of this contract. The contractor shall furnish and deliver * * * Trucks * * *; total amount, $2,028,983.40; in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Changes. Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

Delays—Damages. If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

Variations: Quantities listed hereon are subject to increase of not to exceed * * * vehicles. This increase option to remain in effect until * * *.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to procurement authority QM 22000 P 241-30 A 0022-13 the available balance of which is sufficient to cover cost of same.

This contract authorized under sec. (1) a Act of July 2, 1940 (Public No. 703—76th Congress).

FRANK W. BULLOCK,
Lieut. Col., Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-7510; Filed, October 7, 1941; 11:52 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 1853-FD]

IN THE MATTER OF THE APPLICATION OF THE FORD COLLIERIES COMPANY FOR PERMISSION TO RECEIVE DISTRIBUTORS' DISCOUNTS ON COAL PURCHASED AND RESOLD BY IT TO THE MICHIGAN ALKALI COMPANY

ORDER AND NOTICE OF POSTPONEMENT OF HEARING

Applicant having moved that the hearing in the above-entitled matter be postponed until November 7, 1941, and having shown good cause why its motion should be granted;

It is ordered, That the hearing in the above-entitled matter be postponed from 10 o'clock in the forenoon of October 7, 1941, to 10 o'clock in the forenoon of November 7, 1941, at the place heretofore designated and before the officer previously designated to preside at said hearing.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7471; Filed, October 7, 1941; 10:06 a. m.]

[Docket No. 1736-FD]

IN THE MATTER OF NORRIS COAL COMPANY, A PARTNERSHIP, DEFENDANT

ORDER POSTPONING HEARING

The above-entitled matter having been heretofore scheduled for hearing at 10 o'clock in the forenoon of October 6, 1941 at a hearing room of the Division at the Circuit Court Room, County Court House, Marion, Illinois; and

It appearing to the Director that it is advisable to postpone said hearing;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be and the same hereby is postponed to a date and at a hearing room to be hereafter designated by an appropriate order of the Director.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7472; Filed, October 7, 1941; 10:06 a. m.]

[Docket No. 498-FD]

IN THE MATTER OF THE APPLICATION OF WESTERN PENNSYLVANIA COAL CORPORATION FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY; AND IN RE THE MODIFICATION AND AMENDMENT OF THE ORDER GRANTING APPLICANT PROVISIONAL APPROVAL AS A MARKETING AGENCY

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING

Western Pennsylvania Coal Corporation, a marketing agency previously granted provisional approval pursuant to Section 12 of the Bituminous Coal Act of 1937, having been required by an Order dated August 6, 1941 to show cause why such provisional approval should not be modified in certain specified respects;

The matter having been assigned for public hearing on October 7, 1941;

Said agency having moved that the hearing be postponed until a later date and good cause having been shown why a postponement should be granted;

Now therefore it is ordered, That the hearing in the above entitled matter be and the same hereby is postponed from October 7, 1941 until 10 o'clock in the forenoon of November 4, 1941 at the place and before the officers previously designated.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7473; Filed, October 7, 1941; 10:07 a. m.]

[Docket No. 1673-FD]

IN THE MATTER OF THE PITTSBURG & SHAWMUT COAL COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 7349, DEFENDANT

ORDER FOR CANCELLATION OF HEARING

The hearing in the above-entitled matter having been scheduled for October 7, 1941, at a hearing room and place to be designated by an appropriate order of the Director; and

An order having been entered on October 1, 1941, for the suspension of the registration of the defendant as distributor, pursuant to the statement of admissions agreement and consent to entry of order of suspension of registration of the defendant dated October 1, 1941 on file with the Division;

Now, therefore, it is ordered, That the hearing heretofore scheduled for Octo-

ber 7, 1941 be and the same is hereby cancelled.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7474; Filed, October 7, 1941; 10:07 a. m.]

[Docket No. B-41]

IN THE MATTER OF CARL WHITTINGTON, A CODE MEMBER, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated September 17, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on September 24, 1941, by Bituminous Coal Producers Board for District No. 8, a district board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on November 10, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Daniel Boone Hotel, Charleston, West Virginia.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: During the period October 1, 1940, to March 1, 1941, both dates inclusive, the defendant sold approximately 130 tons of high volatile, Size Group 1 or lump over 2" coal, produced at his Haynes Mine (Mine Index 1429) located in the Tuppers Creek section of Kanawha County, West Virginia, District No. 8, to various consumers at prices of $1.50 to $2.00 per net ton f. o. b. the mine, whereas the effective minimum price for such coal was $2.65 per net ton f. o. b. the mine, as set forth in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipment.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7475; Filed, October 7, 1941; 10:07 a. m.]

[Docket No. A-1034]

PETITION OF DISTRICT BOARD NO. 14 FOR THE ESTABLISHMENT OF AN ADDITIONAL LOADING POINT AT HACKETT, ARKANSAS, FOR THE COALS PRODUCED AT THE MINES OF CERTAIN CODE MEMBERS IN PRODUCTION GROUP NO. 5 IN DISTRICT NO. 14, FOR SHIPMENT BY RAIL ON THE ST. LOUIS-SAN FRANCISCO RAILWAY

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on October 16, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That W. A. Shipman or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before October 11, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 14 for the establishment of an additional loading point at Hackett, Arkansas, for shipment by rail on the St. Louis-San Francisco Railway for the coals produced at the following mines:

Mine Index No. 13 of the Boyd Excelsior Operating Company,
Mine Index No. 33 of the Excelsior Smokeless Coal Company,
Mine Index No. 89 of the Quality Excelsior Coal Company and
Mine Index No. 144 of the E. H. Noel Coal Company,

these mines being located in Production Group No. 5 in District No. 14.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7476; Filed, October 7, 1941; 10:07 a. m.]

[Docket No. A-586]

PETITION OF CONSUMERS' COUNSEL DIVISION TO CHANGE THE SIZE GROUPING OF 2" X O SLACK COAL SHIPPED FROM DISTRICT NO. 8 TO DUBUQUE, IOWA, FOR RETORT GAS USE FROM SIZE GROUP 27 TO SIZE GROUP 20

[Docket No. A-885]

PETITION OF CONSUMERS' COUNSEL DIVISION FOR MODIFICATION OF THE SCHEDULE OF EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 8 TO PERMIT THE SALE OF COAL TO THE KEY CITY GAS COMPANY FOR USE IN ITS DUBUQUE, IOWA, PLANT AT THE MINIMUM F. O. B. MINE PRICE ESTABLISHED FOR FREE ALONGSIDE DELIVERY

ORDER OF CONSOLIDATION AND NOTICE OF AND ORDER FOR HEARING

Original petitions in the above-entitled matters, were duly filed with this Division by the Consumers' Counsel Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Pursuant to an Order of the Director dated February 6, 1941, a hearing was commenced in Docket No. A-586 on March 10, 1941, but no evidence was offered and the hearing was continued until April 22, 1941. Subsequent Orders of the Director further continued the hearing from time to time and by an Order dated May 13, 1941, it was continued until further Order.

No hearing has been previously scheduled in Docket No. A-885.

It appears that the matters concerned in the above-designated dockets present related issues of fact;

Now, therefore, it is ordered, That Dockets Nos. A-586 and A-885 be consolidated for the purpose of hearing and for such other purposes as the Director may deem advisable.

It is further ordered, That a hearing in the above-entitled matters under the applicable provisions of said Act and the rules of the Division be held on November 12, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matters. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 7, 1941.

All persons are hereby notified that the hearing in the above-entitled matters and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to Docket No. A-586, the petition of Consumers' Counsel Division for reduction in minimum prices or for a change in the size grouping of 2" x 0 slack coal produced in District No. 8 for retort gas use from Size Group 27 to Size Group 20 when for shipment to Key City Gas Company at Dubuque, Iowa, and for such changes in the effective minimum prices or size groups for shipment of 2" x 0 slack coal from District No. 8 into Market Area 50 whether or not it is shipped for retort gas use.

The matter concerned herewith is in regard to Docket No. A-885, the petition of Consumers' Counsel Division for modification of the Schedule of Effective Minimum Prices for District No. 8 to permit the sale of coal produced by code members in said district to the Key City Gas Company for use in the plant of the said company in Dubuque, Iowa, in Market Area 50 at the minimum f. o. b. mine prices established for free alongside delivery.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7477; Filed, October 7, 1941; 10:08 a. m.]

[Docket No. A-961]

PETITION OF BITUMINOUS COAL PRODUCERS BOARD FOR DISTRICT NO. 8 FOR PRELIMINARY, OR TEMPORARY AND PERMANENT ORDER ESTABLISHING MINIMUM ON-LINE RAILWAY LOCOMOTIVE FUEL PRICES FOR COAL PRODUCED IN DISTRICT NO. 8 BY ISLAND CREEK COAL COMPANY MINES NOS. 15 AND 16

ORDER GRANTING MOTION TO AMEND AND GRANTING TEMPORARY RELIEF

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, has been filed with this Division by the above-named party requesting a preliminary or temporary and permanent order establishing minimum prices for the coals produced by Island Creek Coal Company Mines Nos. 15 and 16, for on-line railway locomotive fuel. A Notice of and Order for Hearing in the above-entitled docket for October 7, 1941, has been issued and a reasonable showing of the necessity, pending final disposition of the petition in the above-entitled matter, having been made, the Director issued an order granting temporary relief for these coals. The original petitioner has now filed a motion to amend its original petition so as to include a prayer for a preliminary or temporary and permanent order for the establishment of minimum off-line railway locomotive fuel prices for coals produced in District 8 by Island Creek Coal Company Mines Nos. 15 and 16; and

The Director deeming the motion proper, and finding that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with this Division in the above-entitled matter; and

The Director deeming his action necessary in order to effectuate the purposes of this Act:

Now, therefore, it is ordered, That District Board 8's motion be granted, and that, pending final disposition of the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, and supplementing the Schedule of Effective Minimum Prices for District No. 8 for All Shipments Except Truck, the coals referred to in the schedule marked "Temporary Supplement," annexed hereto and hereby made a part hereof, shall be subject to minimum prices as provided in said schedule; *Provided, however,* that the temporary prices established for on-line railway locomotive fuel in the Acting Director's Order of July 15, 1941 and the temporary prices established herein for off-line railway locomotive fuel shall apply to shipments from Island Creek No. 15 Mine from Verdune, West Virginia, only, and to shipments from Island Creek No. 16 Mine from Manus, West Virginia, only.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before

the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7478; Filed, October 7, 1941; 10:09 a. m.]

[Docket No. A-1031]

PETITION OF DISTRICT BOARD NO. 9 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 9, FOR RAIL SHIPMENTS

[Docket No. A-1031 Part II]

PETITION OF DISTRICT BOARD NO. 9 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF THE GREEN RIVER COAL MINE (MINE INDEX NO. 230) IN DISTRICT NO. 9 FOR RAIL SHIPMENTS ORIGINATING AT BEAVER DAM, KENTUCKY

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1031 PART II FROM DOCKET NO. A-1031 AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1031 PART II

The original petition in the above-entitled matter filed with this Division on August 28, 1941, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, requests the issuance of orders establishing temporary and permanent price classifications and minimum prices for the coals of certain mines in District No. 9.

As the Director found in a separate Order issued in Docket No. A-1031, a reasonable showing of necessity has been made for the granting of the relief prayed for by petitioner except in so far as the establishment of price classifications and minimum prices for the coals of the Green River Coal Mine (Mine Index No. 230) for rail shipments originating at Beaver Dam, Kentucky, is concerned.

The Director is of the opinion that the original petition in this matter does not contain facts sufficient to warrant the establishment of price classifications and minimum prices for the coals of the Green River Coal Mine (Mine Index No. 230) for rail shipments originating at Beaver Dam, Kentucky, without a hearing, due to the fact that price classifications and minimum prices have heretofore been established for such coals for rail shipments originating at both Drakesboro and Bowling Green, Kentucky, and the necessity for the establishment of price classifications and minimum prices applying from the additional shipping point has not been clearly shown.

Now, therefore, it is ordered, That the portion of Docket No. A-1031 relating to the Green River Coal Mine (Mine Index No. 230) be and the same hereby is severed from the remainder of Docket No. A-1031 and designated as Docket No. A-1031 Part II.

It is further ordered, That a hearing in Docket No. A-1031 Part II under the applicable provisions of said Act and the rules of the Division be held on November 12, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That D. C. McCurtain or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to adminster oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 7, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 9 for the establishment of price classifications and minimum prices for the coals of the Green River Coal Mine (Mine Index No. 230) in District No. 9 for rail shipments originating at Beaver Dam, Kentucky.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7479; Filed, October 7, 1941; 10:09 a. m.]

[Docket No. A-983]

PETITION OF THE BITUMINOUS COAL CONSUMERS' COUNSEL FOR THE ESTABLISHMENT OF MAXIMUM PRICES FOR EACH OF THE PRODUCING DISTRICTS

MEMORANDUM OPINION AND ORDER

This is a matter instituted upon an original petition filed with the Bituminous Coal Division on July 23, 1941, pursuant to Section 15 of the Bituminous Coal Act of 1937 (the "Act"), by the Bituminous Coal Consumers' Counsel ("Consumers' Counsel") seeking the expeditious establishment, under section 4 II (c), of maximum prices f. o. b. transportation facilities at the mines for all coals produced in each of the producing districts. The petition, as amended on September 5, 1941, charged that excessive prices, approaching the proportions of profiteering, were being charged for bitumious coal in many markets and requested that maximum prices be established for each of the districts at a specified uniform increase over the minimum prices presently effective.

On September 24, 1941, in the course of the hearing, Consumers' Counsel moved to amend further the original petition.[1]

Intervening petitions were filed by each of the District Boards and by numerous interested persons such as code members, distributors, marketing agencies, and consumers.

Pursuant to an order of the Director dated August 13, 1941, and after due notice to all interested persons, a hearing in this matter was initiated on September 9 before C. R. Larrabee, an Examiner of the Division duly designated by the Director to conduct said hearing. At the hearing the original petitioner, District Boards 1-20, inclusive, 22 and 23, and

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[1] The amendments made were as follows:

(1) By amending paragraph 2 which originally read:

Your petitioner is informed by many letters from consumers throughout the country and from other sources, and believes, that prices being charged for bituminous coal in many markets are excessive and oppressive of consumers, such prices in many instances approaching the proportions of profiteering.

to read:

Your petitioner is informed and believes that prices being charged for bituminous coal in certain markets are excessive and oppressive of consumers.

(2) By amending Paragraph 4 of the original petition by striking out the following sentence which appears on page 2 of the petition:

In the face of overwhelmingly favorable popular response to this appeal by millions of patriotic citizens, many bituminous coal producers have taken advantage of the stimulated demand for coal by increasing their prices to unwarranted figures.

(2) By striking out the word "such" which is the first word of the last complete sentence in Paragraph IV and substituting therefor the word "unwarranted."

(4) By striking Paragraph V of the petition in its entirety.

numerous other interveners appeared and participated. Consumers' Counsel introduced evidence, both oral and documentary, through 19 witnesses, and requested that judicial notice be taken of the several Minimum Price Schedules and of proclamations of the President in the Fall of 1939 and in May 1941, proclaiming national emergencies. On September 25, 1941, petitioner rested its case.

Thereupon counsel for several district boards and code members either moved that the petition of the Consumers' Counsel be dismissed or that the petition be dismissed and that the Director retain jurisdiction of the present proceeding.

The motions to dismiss the petition of Consumers' Counsel in this matter were ordered reduced to writing and referred to the Director. Pending a ruling upon the motions to dismiss, the hearing was suspended and on September 30 the Director heard oral argument on the motions.

The extreme importance to the bituminous coal industry of the issue posed for resolution is evidenced both by the varying positions taken by the respective district boards and the earnestness with which each position, in turn, has been argued. District Boards 7 and 8 and Carter Coal Company, a code member producer in District 7, were in favor of an outright dismissal of the proceeding. Counsel for District Boards 2 and 18 stated that those district boards concurred in this position.[2] District Board 1, while not supporting the position of Consumers' Counsel, opposed the motion to dismiss on the grounds that in the light of the emergency it was essential to the industry and the public alike that the proceeding be continued and the record heretofore made be utilized for whatever value it had. District Boards 3, 4, 6, 10, and 11 took the position that the record did not sustain the charges of excessive and oppressive prices made by Consumers' Counsel but urged that the Director retain jurisdiction and continue the proceeding in an endeavor to determine whether maximum prices were necessary, and, if so, what maximum prices were proper. American Coal Distributors stated its agreement with this position. The position taken by the National Association of Hothouse Vegetable Growers, Inc., was substantially in accord with the position taken by District Board 1 but in addition the Association urged that in order to clarify the proceeding the Director order Consumers' Counsel to elect whether it wants this matter to proceed as one under section 15 of the Act or under section 4 II (c). Consumers' Counsel opposed all motions for dismissal, contending that the record demonstrated that excessive prices, oppressive to consumers, do presently exist in certain markets and that the trend of prices for bituminous coal in many grades and sizes has been steadily upward in many markets.

The memoranda and arguments submitted in support of these several contentions have been extremely helpful particularly when considered against the background of the record, to which the Director has given careful attention.

However different the position of the parties, there appears to be agreement upon certain basic matters. No one contends that the Act does not authorize the establishment of maximum prices for bituminous coal. Although the legislative history of the Coal Act discloses that the primary purpose for its enactment was the desire of Congress to establish a "floor" for bituminous coal prices in an endeavor to stabilize the industry, the establishment of maximum prices and the attendent protection of the public against unreasonably high prices is one of the pervasive objectives of the Act. True, maximum prices are not to be established unless a need therefor is shown. To this end, active participation by all those having a responsibility for or apt to be affected by the operation of the Act is essential if the Director is to be in a position to make proper maximum prices effective if the need therefor is demonstrated.

There was agreement too on the proposition that the Director, apart from any petition or complaint that may be filed with him, has a statutory obligation to establish maximum prices whenever it is necessary in the public interest to protect consumers against unreasonably high prices.

It was similarly agreed that it would be inadvisable to delay an inquiry as to whether there exists a need for the establishment of maximum prices until prices had already reached unreasonable levels. It is clear that any inquiry conducted before any immediate need arises can be conducted with more care and caution. To the extent that the proceeding is now permitted to continue and proceed in an orderly manner the risk of the need for precipitate action in the future is lessened. And in this same connection, it is clear that the Director cannot be insensitive to the rising costs and inflationary trends which are now the concern of both the executive and legislative branches of the government. In ruling on the motions those facts must be kept in mind.

It has been earnestly argued by counsel for District Boards 7 and 8 that the record is hopelessly inadequate to support the claims of Consumers' Counsel and that the motion to dismiss must "as a matter of law" be granted. The argument is that this proceeding was brought under section 15 of the Act and, the record failing to support the charges made in the petition, the petition must be dismissed. Although the petition was, as is stated above, filed by the Bituminous Coal Consumers' Counsel pursuant to Section 15 of the Act, it nevertheless requested the Director to establish maximum prices under section 4 II (c) of the Act.

In setting down the case for hearing, the Director ordered that the proceeding concern itself with the issues posed by the following allegations of the Consumers' Counsel's petition:

(1) That prices being charged for bituminous coal in many markets are excessive and oppressive of consumers, such prices in many instances approaching the proportions of profiteering, and that such prices for present and future delivery are far in excess of reasonable prices, and consumers are being seriously injured by the current market quotations and by the fear of still higher prices;

(2) That the abuses that have already occurred and the graver abuses which threaten can only be rectified and prevented by the immediate imposition of a schedule of maximum prices for each of the producing districts under the provisions of section 4 II (c) of the Act;

(3) That such maximum prices should be established at specified increases above the minimum prices in effect within each of the districts, such increase being approximately 10% of the estimated realization for all the coal produced in each such district under the present effective minimum prices; and

(4) That an expeditious procedure should be formulated for hearing the bona fide and legitimate claims of code members who seek special higher maximum prices for themselves, alleging that the general maximum prices would not yield them a fair return on the value of their property.

It was clear from the Notice of and Order for Hearing that the proceeding was concerned with the establishment of maximum prices for bituminous coal.[3] And it is equally clear from the order that the Director did not set the case for hearing for the sole purpose of determining whether "abuses" within the meaning of section 15 existed. It follows, therefore, that even if the existence of abuses has not been established there is no absence of "jurisdiction" to continue this proceeding.

Several of the district boards have asked for a determination of my views of the record thus far and I think that the industry is, in light of the charges initially made, entitled to such a determination. It is clear from the record that Consumers' Counsel has failed to establish either (1) that "abuses" exist or (2) that prices being charged for bituminous coal are "excessive and oppressive of consumers." Although the record does show that in many instances

[2] In the written motions which were filed for District Boards 2 and 18, it was stated that if the Director dismissed this proceeding he could thereupon issue an order for a hearing in a general docket for the purpose of establishing maximum prices pursuant to section 4 II (c) of the Act.

[3] Indeed, the opening sentence of the Notice of and Order for Hearing stated that the petition was filed for "the expeditious establishment of maximum prices."

the prices of bituminous coal have increased both before and after April 1, 1941, it fails to demonstrate that these increases are not justified in light of the many attendant circumstances.

None the less, the record does contain evidence tending to show that the trend of prices has been upward, that there may be a shortage of transportation facilities for the movement of bituminous coal in some localities[4] and that there may be a shortage of certain kinds and sizes of bituminous coal due to the sudden expansion of demand. Even though the particular charges of the petition have not been sustained, a showing has been made sufficient to render it advisable at this time to continue the proceeding in order that the objective of the Act be realized.

As several of the parties have claimed, the record is almost completely barren of any testimony supporting Consumers' Counsel proposed schedule of maximum prices as conforming to the standards of the Act or as being fair and equitable. That, however, is no reason for dismissing the proceeding at this time. On the contrary, it supplies a reason for going ahead and obtaining data from which an intelligent conclusion can be drawn as to what would be a proper schedule of prices to establish if such is to be done.

Of course, in the proceeding to follow it is expected that the parties will introduce evidence with respect to the need for the establishment of maximum prices and the prices which it would be proper to establish, so that after completion of the hearing, I will be in a position to establish maximum prices when and if the need therefor arises. It is to be emphasized that the Director does not regard this as an adversary proceeding. All relevant facts should be before the Director when he is called upon to determine (1) whether maximum prices are necessary, and (2) if so, what those prices should be. And it is for the purpose of developing these facts that the hearing is being continued.

It has been suggested that these proceedings should be dismissed and that there should be instituted by the Director a new proceeding looking to the establishment of maximum prices. To dismiss this proceeding and institute at the same time a new proceeding would be to invite unnecessary delay and to erase from the record data which I have already found establishes a sufficient reason for going ahead with the present proceeding to determine whether there is a need for the establishment of a schedule of maximum prices.

[4] Consumers' Counsel introduced evidence in support of the claim that the spiralling of prices during the First World War was due to transportation shortages. At the oral argument, it was not contested that transportation shortages was a major reason for the spiralling of prices during the First World War, but it was also stated that many other factors contributed to the increases, such as labor shortages, concentration of war industries in certain regions, etc.

In determining that the proceeding should go forward, the Director recognizes that the matter of the establishment of maximum prices is one of great concern to the entire industry. By cooperative and objective endeavor much can be done toward solving the many complex and difficult problems which are encountered in the establishment of a sound schedule of maximum prices. There is every reason to believe that with such cooperative effort there will evolve a proper schedule which will be available if and when it is found that maximum prices are necessary. The district boards particularly have a heavy responsibility in this connection. For it is upon them that the Director relies, as he has relied in the past, for valuable and helpful aid in the solving of difficult problems arising in connection with the successful administration of the Act.

It is encouraging to find that many of the district boards have urged me to take the position which I am here taking. All the district boards have given indication that they would cooperate fully in an endeavor to determine (1) whether maximum prices are necessary and (2) if so, what those prices should be. The recognition by the industry of its broad responsibility to the consuming public, which the offer of cooperation betokens, is commendable indeed. I am fully confident that the hearing in this mater will proceed expeditiously and a workable solution and a safeguard against runaway prices evolved in the event such solution and safeguard are found necessary.

Counsel for District Board 7 indicated at the oral argument that if the Director was to continue the proceeding, the District Board for which he spoke would require an adjournment of the hearing in order to have time in which to prepare its case. Although a similar request was not made by representatives for other district boards, and although it is some six weeks since the Notice of and Order for Hearing in this matter was issued, I have, nevertheless, determined that the hearing ought not to reconvene until October 13, 1941. I have concluded to allow this interval because of my firm conviction that a comprehensive presentation by the district boards will be of great aid in formulating a basis for a sound determination of this matter. I feel that whatever loss there may be in time will be more than compensated by the more orderly and full presentation that the district boards and other interested parties will be enabled to make if they are given such an interval during which further to prepare their cases.

To the extent that the motions of the several district boards seek dismissal of this proceeding, they are denied. Those motions seeking a determination of the record thus far are granted to the extent set forth above. To the extent that several of the pending motions seek continuance of the proceeding, they are granted. The motion of the National Association of Hothouse Vegetable Growers, Inc., except as it seeks continuance of the proceeding, is also denied.

And it is so ordered.

Dated: October 3, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7480; Filed, October 7, 1941; 10:09 a. m.]

[Docket No. 1565-FD]

IN THE MATTER OF THE CARDINAL FUEL AND SUPPLY COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 1404, DEFENDANT

MEMORANDUM OPINION AND ORDER DENYING APPLICATION FOR RECONSIDERATION

This proceeding was instituted by the Bituminous Coal Division, pursuant to the provisions of the Bituminous Coal Act of 1937, in order to investigate and determine whether the Cardinal Fuel and Supply Company, a registered distributor, Registration No. 1404, Columbus, Ohio, had violated certain provisions of the Rules and Regulations for the Registration of Distributors promulgated pursuant to section 4 II (h) of the Act.

A hearing in this matter was held on March 5, 1941, before Edward J. Hayes, a duly designated Examiner of the Division, at a hearing room thereof in Columbus, Ohio. All interested parties were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. The defendant appeared.

On July 2, 1941, the Examiner filed his Report, Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations in this matter, in which it was recommended that the registration of the defendant as a registered distributor be suspended for a period of ninety days.

Thereafter, the defendant filed exceptions to the Examiner's report, a brief in support thereof, and, pursuant to leave granted by the Director, presented oral argument before the Director in support of its exceptions on August 19, 1941.

On September 16, 1941, the Director issued his Findings of Fact, Conclusions of Law and Opinion concerning Exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendations of the Examiner and his Order Adopting with Modification the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendations of the Examiner and suspending the registration of the defendant as a registered distributor for sixty days from the date thereof.

On September 24, 1941, the defendant filed with the Division an application for reconsideration of the Director's Order of September 16, 1941, contending (1) that in the absence of evidence that any of the shipments involved herein were made outside of the State of Ohio, they were strictly intrastate shipments and not subject to the Act or to the power of the Congress, and (2) that the Rules

and Regulations of the Division which were violated by the defendant are invalid as improper delegations to the Division of the legislative power of the Congress.

The contentions of the defendant are without merit and its application for reconsideration should be denied for the following reasons:

(1) In Docket No. 18–FD, a proceeding brought pursuant to Section 4–A of the Act, it was decided that transactions in bituminous coal in intrastate commerce in all localities in the State of Ohio directly affect interstate commerce in such coal and that there will be an undue or unreasonable advantage, preference or prejudice as between transactions in intrastate commerce in Ohio on the one hand and interstate commerce in bituminous coal on the other hand, and an undue, unreasonable, or unjust discrimination against interstate commerce in such coal if such transactions in intrastate commerce or any substantial part thereof are not regulated and subjected to the provisions of the Act. These findings are applicable to the transactions in question of the defendant.

The Order entered in Docket No. 18–FD and section 4–A of the Act provide that any producer believing that any particular intrastate transactions in coal are not subject to the Act may apply to the Division for exemption. The defendant does not claim that any of the coal involved in this proceeding was ever the subject matter of such an exemption proceeding. The defendant now, for the first time, raises the contention concerning the intrastate character of its transactions. It is significant that the contention was not mentioned in the answer filed herein by the defendant on March 4, 1941, in the exceptions of the defendant to the Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations of the Examiner, in the brief filed by the defendant in support of said exceptions, or in the oral argument presented before the Director in support of the exceptions on August 19, 1941 [1]

The producers whose coal was here involved are code members. By accepting membership in the Bituminous Coal Code, they subjected all coal sold by them to the provisions of section 4 of the Act. Furthermore, the defendant is a registered distributor. By applying for and accepting registration as a distributor, the defendant voluntarily subjected itself to the Rules and Regulations for the Registration of Distributors, agreed not to accept or receive any distributor's discount in excess of that prescribed by the Division, and agreed to abide by the effective minimum price schedules and by the Marketing Rules and Regulations. Under the foregoing circumstances, the defendant can ill afford to claim that the transactions in question were not subject to regulation under the Act.

The power of the Congress to regulate transactions in intrastate commerce where they directly affect interstate commerce is, at this date, beyond question.

(2) The Supreme Court of the United States has decided adversely to the contention of the defendant regarding delegation of Congressional power to the Division. See *Sunshine Anthracite Coal Co.* v. *Adkins*, 310 U. S. 381, 397–400. No further discussion of this contention is warranted.

In view of the foregoing, I find that no sufficient cause has been shown warranting a reconsideration of the Order of the Director of September 16, 1941, herein.

It is therefore ordered, That the application for reconsideration filed by the Cardinal Fuel & Supply Company be and it hereby is denied.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–7481; Filed, October 7, 1941; 10:09 a. m.]

[Docket No. 1673–FD]

IN THE MATTER OF THE PITTSBURG & SHAWMUT COAL COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 7349, DEFENDANT

ORDER OF SUSPENSION OF REGISTRATION

The Notice of and Order for Hearing in the above-entitled matter having been duly made by the Director on May 15, 1941, pursuant to the provisions of § 304.14 of the Rules and Regulations for the Registration of Distributors promulgated by the Bituminous Coal Division (the "Division") pursuant to section 4 Part II (h) of the Bituminous Coal Act of 1937 (the "Act"), to determine whether the Pittsburg & Shawmut Coal Company, Registered Distributor, Registration No. 7349, the defendant herein, has violated the provisions of the Act, the Bituminous Coal Code (the "Code"), the Rules and Regulations for Registration of Distributors, the agreement (Distributor's Agreement) executed September 9, 1940 by Pittsburg & Shawmut Coal Company pursuant to an order of the National Bituminous Coal Commission dated March 24, 1939 in General Docket No. 12 and adopted July 1, 1939 as an order of the Division, and orders of the Director; and

Whether or not the registration of the Pittsburg & Shawmut Coal Company as a registered distributor should be revoked or suspended or other appropriate penalties should be imposed; and

Said Notice of and Order for Hearing having been duly served upon the defendant on May 26, 1941, and the defendant, on August 7, 1941, having consented to the entry of an "Order Amending and Supplementing Notice of and Order for Hearing," and said order having been duly served on the Defendant on August 8, 1941, in accordance with the above-mentioned consent; and

The defendant by a "Statement of Admissions Agreement and Consent To Entry of Order of Suspension of Registration," made September 23, 1941, the original of which is on file with the Division, having consented to the entry of an order suspending its registration as a distributor for a period of six months from the date of service of said order on the defendant and in furtherance thereof having expressly agreed to waive (1) a hearing pursuant to the Order Amending and Supplementing the Notice of and Order for Hearing herein; (2) oral argument and filing of briefs before the Director or other presiding officer; (3) the preparation and submission of any report, findings of fact, or recommendation by the Director or other presiding officer; (4) the presentation of all argument before the Director or other presiding officer; and (5) the preparation and submission of tentative findings of fact or proposed order of the Director; and

The defendant, in said "Statement of Admissions Agreement and Consent to Entry of Order of Suspension of Registration," having admitted violations of the provisions of the Act, the Code, the Marketing Rules and Regulations, the Rules and Regulations for Registration of Distributors, the Distributor's Agreement, and Orders of the Division, and agreed therein, as follows:

I

A. The defendant, Pittsburg & Shawmut Coal Company ("P and S Company"), is a corporation duly organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, with its principal office located at 132 N. McKean Street, Kittanning, Pennsylvania, and has been during the time herein mentioned, and is now engaged under the powers granted to it by its corporate charter in the business of buying and selling coal.

B. A majority of the outstanding shares of capital stock of the defendant is owned by the Allegheny River Mining Company ("Allegheny"), a corporation, duly organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania. Allegheny has been during the time herein mentioned and is now a code member engaged under the powers granted to it by its corporate charter in the business of producing bituminous coal. Its principal office is located at 132 N. McKean Street, Kittanning, Pennsylvania.

[1] On September 22, 1941, almost one month after said argument, and six days after the Director issued his Findings of Fact, Conclusions of Law, Opinion, and Order herein, the defendant lodged with the Division a document entitled "Additional Exceptions of the Cardinal Fuel & Supply Company to the Proposed Findings of Fact, Proposed Conclusions of Law and Recommendations of the Examiner." In this document for the first time the defendant mentioned the contentions now raised by it. This document, however, because of its tardiness, cannot be considered to have been validly filed with the Division.

C. A majority of the outstanding shares of capital stock of Allegheny is owned by the Pittsburg & Shawmut Railroad ("P & S Railroad"), a corporation duly organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania which, since the year 1902, has been engaged under the powers granted to it by its corporate charter in the business of operating a steam railroad. Its principal office is located at 132 N. McKean Street, Kittanning, Pennsylvania.

D. The Freebrook Corporation ("Freebrook") is a corporation duly organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania, and has been during the time herein mentioned and is now engaged under the powers granted to it by its corporate charter in the business of mining bituminous coal as a code member producer with its principal office located at 293 Main Street, Brookville, Pennsylvania. Charles M. Shoffner owns 60% of its outstanding shares of stock and 40% of its outstanding shares of stock is owned by his brother, John R. Shoffner.

E. The Ringgold Corporation ("Ringgold") is a corporation duly organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania and has been during the time herein mentioned and is now engaged under the powers granted to it by its corporate charter in the business of mining bituminous coal as a code member producer. Its principal office is located at Timblin, Pennsylvania. Charles M. Shoffner owns 40% of its outstanding shares of stock and 60% of its outstanding shares of stock is owned by his brother, John R. Shoffner and other members of their family.

F. Officers and directors of Allegheny, P & S Company, Freebrook and Ringgold have been at all times since October 1, 1940, and now are as follows:

	Allegheny	P & S Company	Freebrook	Ringgold
Chas. M. Shoffner	President	Chairman of Board	President	President.
E. J. Halberg	Secretary and General Counsel.	Secretary and General Counsel.		
E. H. Allendorfer		Vice Pres. and General Sales Mgr.		
Roy M. Gidel	Purchasing Agent			
W. M. Dippold	Treasurer	Treasurer		
John R. Shoffner	Gen. Supt. Ch. Engineer	Director	Vice Pres. Director.	Director.
M. A. Crawford	Assistant Secretary	Assistant Secretary		
A. J. Griffith	Assistant Auditor and Assistant Treasurer.	Assistant Auditor and Assistant Treasurer.		

G. On September 17, 1940, pursuant to the Order of the National Bituminous Coal Commission dated March 24, 1939, entered in General Docket No. 12, the defendant filed with the Division its application dated September 9, 1940, for registration as a distributor which was accompanied by its agreement executed September 9, 1940, (the "Distributor's Agreement") as a condition to the approval of said application; said application was approved by the Division on September 17, 1940, and Certificate No. 7349 was issued to the defendant authorizing it to act as a registered distributor; the defendant has ever since this date and is now acting as a registered distributor.

II

A. (1) Rule 2 of section XII of the Marketing Rules and Regulations by the sale of approximately 13,567 tons of bituminous coal for railroad shipment which were produced by the code member producers in District 1, set forth in Paragraph A (2) hereof and for which no effective minimum prices, temporary or final, for railroad shipment had been established by the Division at the time the railroad shipments were made; Rule 3 of section XII of the Marketing Rules and Regulations by filing false information, wilfully made, with Statistical Bureau for District 1, concerning the above-mentioned transactions; by representing that said coal was produced at Allegheny's Cadogan Mine, Mine Index No. 76, located at Cadogan, Pennsylvania, in District No. 1; Rule 8 of section XIII of the Marketing Rules and Regulations by intentionally making false invoices concerning the origin of the above-mentioned coal by representing that said coal was produced at the Cadogan Mine; and Paragraph (e) of its Distributor's Agreement by committing the above-named violations of the Marketing Rules and Regulations. The defendant, however, asserts that there was no intention on its part to mislead the purchasers of such coal and that such purchasers generally knew that it was produced at numerous mines other than the Cadogan Mine. The defendant further asserts that the practice of billing and invoicing said coal as produced at the Cadogan Mine had been followed for many years before October 1, 1940.

The coal was trucked by said Code member producers to a railway loading dock, namely Colwell Dock, a loading ramp operated by Freebrook, purchased by P & S Company f. o. b. the Colwell Dock at a price of $1.50 per net ton, and there loaded and shipped in railroad cars over the P & S Railroad at the lawfully published and established tariff rate to the Cadogan cleaning and preparation plant owned by Allegheny (the "Cadogan Plant") located at the Cadogan Mine for washing, preparation, resale and reshipment to various purchasers. The effective minimum price f. o. b. the mine for truck shipments for this coal was $2.20 per net ton. The P & S Company sold and invoiced the coal at a price of $2.05 or more per net ton f. o. b. the Cadogan Plant as coal produced at the Cadogan Mine, and reported the transactions to the Statistical Bureau for District No. 1 as sales of coal produced at the Cadogan Mine made f. o. b. the Cadogan Plant. The P & S Company collected the resale price of the coal, paid 25 cents per net ton to Freebrook for loading over the Colwell Dock, the tariff rate of $2.00 per car to the P & S Railroad for hauling the coal from the Colwell Dock to the Cadogan Plant, and 10 cents per net ton for cleaning to Allegheny. The defendant represents that it made no deduction for reject coal in the payment of the producer of $1.50 per net ton but absorbed the loss of approximately 10¢ per net ton resulting from such reject coal.

(2) The code member producers, the index numbers of their mines and the tonnages of coal produced by them respectively and sold by the P & S Company as described in (1) hereof are as follows:

Mine index No.	Code member producers in District No. 1	Total tons
1001	F. J. Adams, New Bethlehem, Pa.	2,057
3046	Ben Desantes	478
1308	R. W. Duncan, Rimer, Pa.	9
2838	Ira Foster, Dayton, Pa.	160
2783	C. H. Gathers, Brookville, Pa.	179
1491	Loyal T. Henderson, New Bethlehem, Pa.	639
1537	O. E. Houser, New Bethlehem, Pa.	594
2533	C. F. Miller, New Bethlehem, Pa.	469
1793	Ernest Moore, Oak Ridge, Pa.	678
1887	Pence Coal Co., Fairmont City, Pa.	3,348
1910	Priester Bros., Distant, Pa.	234
1930	Scott L. Rearick, Distant, Pa.	1,556
1303	T. R. Reddinger, Distant, Pa.	1,474
2599	C. O. Shick, New Bethlehem, Pa.	377
2463	Chas. F. Shumaker, Seminole, Pa.	307
721	Floyd Thomas, Putneyville, Pa.	248
2160	Ross Traister, Rimer, Pa.	443
703	Wadding Bros.	317
		13,567

B. Rule 2 of section XII of the Marketing Rules and Regulations, by selling for railroad shipment f. o. b. the Cadogan Plant, during the period from October 1, 1940, to and including February 28, 1941, approximately 6,992.75 net tons of coal produced by the James Coal Mining Company at its Orpha Mine (Mine Index No. 353) located in Armstrong County, Pa., and approximately 5,674 tons of coal produced by the Mohawk Mining Company at its Mohawk Mine (Mine Index No. 556) located in Armstrong County, Pa., for which no effective minimum prices for railroad shipment f. o. b. the Cadogan Plant, temporary or final, were established by the Division at the time the railroad shipments were made; Paragraph (d) of its Distributor's Agreement by purchasing the above-mentioned coal, physically handling it at the Cadogan plant and accepting and retaining distributor's discounts from the purchase price thereof; Rule 3 of section XII of the Marketing Rules and Regulations by filing false information, wilfully made, with the Statistical Bureau for District 1 concerning the above-mentioned transactions; Rule 8 of section XIII of the

Marketing Rules and Regulations by intentionally making false invoices concerning the origin of the above-mentioned coal; and Paragraph (e) of its Distributor's Agreement by committing the above-named violations of the Marketing Rules and Regulations. The defendant, however, asserts that there was no intention on its part to mislead the purchasers of such coal and that such purchasers generally knew that it was produced at numerous mines other than the Cadogan Mine. The defendant further asserts that the practice of billing and invoicing said coal as produced at the Cadogan Mine had been followed for many years before October 1, 1940.

This coal was purchased by the P & S Company and shipped in railroad cars over the P & S Railroad at the lawfully published and established tariff rate from the mines of the code member producers to the Cadogan Plant and there screened and otherwise physically handled under the direction of the P & S Company. The P & S Company resold and invoiced the screened sizes f. o. b. the Cadogan Plant as coal produced at the Cadogan Mine and reported the transactions to the Statistical Bureau for District No. 1 as sales of coal produced at the Cadogan Mine made f. o. b. the Cadogan Plant. During said period no effective minimum prices temporary or final had been established f. o. b. the Cadogan Plant for the sale of coal produced at the mines of the James Coal Company or the Mohawk Mining Company or at said mines for the sizes of coal sold by the P & S Company.

C. Rule 2 of section XII of the Marketing Rules and Regulations by selling for railroad shipment f. o. b. the Ringgold cleaning and preparation plant owned by Ringgold (the "Ringgold Plan") located at the Ringgold Mine, Ringgold, Pennsylvania, 537.45 tons of coal produced by E. S. Geer at his Geer Mine (Mine Index No. 684) located near Timblin, Pa., and 335 tons of coal produced by G. C. Blose at his Blose Mine (Mine Index No. 729) located near Timblin, Pa., for which no effective minimum prices, temporary or final, for railroad shipment had been established by the Division at the Ringgold Plant at the time the railroad shipments were made; Rule 3 of section XII of the Marketing Rules and Regulations by filing false information wilfully made with the Statistical Bureau for District No. 1 concerning the above-mentioned transactions; Rule 8 of section XIII of the Marketing Rules and Regulations by intentionally making false invoices concerning the origin of the above-mentioned coal; and paragraph (e) of its Distributor's Agreement by committing the above-named violations of the Marketing Rules and Regulations. The defendant, however, asserts that there was no intention on its part to mislead the purchasers of such coal and that such purchasers generally knew that it was produced at numerous mines other than the Ringgold Mine. The defendant further asserts that the practice of billing and invoicing said coal as produced at the Ringgold Mine had been followed for many years before October 1, 1940.

The coal was transported by the Code member producers by truck to the railroad siding located at Markles, Pennsylvania and there loaded into railroad cars by them. The coal was purchased f. o. b. said cars by the P & S Company and shipped to the Ringgold Plant where it was cleaned and otherwise physically handled under the direction of the P & S Company for resale and reshipment to various purchasers. The P & S Company resold and invoiced the coal f. o. b. the Ringgold Plant as coal produced at the Ringgold Mine and reported the transactions to the Statistical Bureau for District No. 1, as sales of coal produced at the Ringgold Mine made f. o. b. the Ringgold Plant.

D. Rule 2 of section XII of the Marketing Rules and Regulations by selling approximately 5,182.50 tons of coal for railroad shipment f. o. b. the Ringgold Plant during the period from October 1, 1940 to February 28, 1941, produced by the Lost Hill Company (H. C. Elkin) at its Lost Hill Mine, Mine Index No. 607, located at Dora, Pennsylvania, and approximately 5,563.45 tons of coal for railroad shipment f. o. b. the Ringgold Plant during the period from October 1, 1940 to March 31, 1941, produced by Frank W. Milliron (Milliron Coal Company) at his Milliron Mine, Mine Index No. 655, located at Ringgold, Pennsylvania, for which no effective minimum prices temporary or final had been established by the Division for railroad shipment f. o. b. the Ringgold Plant at the time the railroad shipments were made; paragraph (d) of its Distributor's Agreement by purchasing the above-mentioned coal at the effective minimum price therefor, physically handling it at the Ringgold Plant and accepting and retaining distributor's discount thereon; Rule 3 of section XII of the Marketing Rules and Regulations by filing false information, wilfully made, with the Statistical Bureau for District 1 concerning the above-mentioned transactions; Rule 8 of section XIII of the Marketing Rules and Regulations by intentionally making false invoices concerning the origin of the above-mentioned coal; paragraph (e) of its Distributor's Agreement by committing the above-named violations of the Marketing Rules and Regulations.

The coal produced at the Lost Hill Coal Company was delivered by the Code member producer into railroad cars at Dora, Pennsylvania, and there purchased by the P & S Company. The coal produced at the Milliron Mine was delivered by the Code member producer into railroad cars at Markles, Pennsylvania, and there purchased by the P & S Company. The coal was shipped from these points by the P & S Company to the Ringgold Plant at Ringgold, Pennsylvania, where it was screened and otherwise physically handled under the direction of the P & S Company. The P & S Company sold and invoiced the coal f. o. b. the Ringgold plant as coal produced at the Ringgold Mine and reported the transactions to the Statistical Bureau for District No. 1 as sales of coal produced at the Ringgold Mine made at the Ringgold Plant.

E. Paragraph (d) of its Distributor's Agreement by accepting and retaining unauthorized distributor's discounts on coal purchased from Freebook Corporation and physically handled by it during the period from October 1, 1940 to on or about August 1, 1941. This coal was purchased by the P & S Company f. o. b. mines of the Freebrook Corporation, shipped therefrom to the Ringgold Plant, cleaned and otherwise physically handled and resold by the P & S Company therefrom to various purchasers.

F. Rules 1 and 2 of section VIII of the Marketing Rules and Regulations and Paragraph (e) of its Distributor's Agreement by utilizing analyses in the sale and offer for sale of coal produced by Allegheny, a Code member, which was sold to the Erie Railroad Company, the Delaware, Lackawanna and Western Railroad Company, the City of Buffalo, New York, the Empire Builders Supply Company, Inc., Niagara Falls, New York, Fred E. Shardon, Lockport, New York, the Diamond Match Company, Oswego, New York, Dawson-Gruman Company, Inc., Syracuse, New York, and numerous other consumers; by failing to file with the Statistical Bureau for District No. 1 or the Bituminous Coal Producers Board for District No. 1 reports of the analyses used; and by failing to accompany said analyses with statements to the effect that such analyses were properly filed with the Statistical Bureau for District No. 1, and the Bituminous Coal Producers Board for District No. 1.

G. Rule 5 of section VIII of the Marketing Rules and Regulations and paragraphs (e) and (f) of its Distributor's Agreement by making agreements with or accepting orders from the purchasers named in F hereof for the sales of said coal upon a penalty or a premium and penalty basis and failing to file the analyses upon which the premium and penalty clauses of such agreements and orders were based, as required by Rule 1 of section VIII of the Marketing Rules and Regulations, and, except in respect to a contract with the City of Buffalo, failing to file statements setting forth in full the terms of the premium and penalty provisions of the agreements and orders.

H. Order No. 14 of the Commission dated July 15, 1937, adopted as an order of the Division by the Secretary of the Interior on July 1, 1939, and paragraph (f) of its Distributor's Agreement, by failing to file with the Statistical Bureau for District No. 1 copies of the agreements and orders referred to in G hereof.

I. Rule 1 section X of the Marketing Rules and Regulations and Paragraph (e) of its Distributor's agreement, by granting allowances for coal claimed to be substandard in quality to the Canadian National Railway, Arkport Dairies, Inc., David Maypol Tool Company, and Philadelphia Milk Producers Co-operative Association and failing to file with Statistical Bureau for District No. 1 the information required by Rule 1, section X of the Marketing Rules and Regulations.

J. Section 4 Part II (d) of the Bituminous Coal Act of 1937, Part II (e) of the Code and paragraph (b) of its Distributor's Agreement, by selling and shipping during the period from October 1, 1940 through January 31, 1941 to the Canadian National Railway of Canada run of mine coal for railroad fuel, produced by Allegheny at its Cadogan Mine, Mine Index No. 76, located in Armstrong County, Pennsylvania, via Lake Ontario car ferry and charging therefor less than the applicable effective minimum prices for such coal for shipment via Lake Ontario car ferry.

K. Section 4 Part II (e) of the Act, Part II (e) of the Code and paragraph (b) of its Distributor's Agreement by granting discounts not authorized by the Rules and Regulations for the Registration of Distributors on coal produced by Allegheny at its Cadogan Mine, Mine Index No. 76 and by Ringgold at its Ringgold Mine, Mine Index No. 433, located in Armstrong County, Pennsylvania, and sold by P & S Company during the period from October 1, 1940 through March 31, 1941 to Ardean R. Miller, Rochester, New York for resale by Ardean R. Miller through his retail yard to the Taylor Instrument Company, of Rochester, New York.

Now, therefore, based upon the above admissions of the defendant, upon the defendant's consent to the making and entry of this order of suspension of registration and the agreements of the defendant, (a) that neither it nor any of its officers, representatives, agents, servants, employees, attorneys or affiliates will act as a registered distributor or accept or receive any discounts from the effective minimum prices either directly or indirectly on coal purchased by it or them or any of them from code members during said period of suspension; (b) that neither it nor any of its officers, representatives, agents, servants, employees, attorneys or affiliates will receive or accept any commissions as sales agent on coal sold during said period of suspension under any sales agency contract entered into subsequent to August 18, 1941, unless such contract shall have been approved by the Director under and for the purposes of this order; (c) that during said period of suspension it and they will at all times observe and faithfully abide by all the provisions of the Act, the Marketing Rules and Regulations, the Rules and Regulations for the Registration of Distributors, the Distributor's Agreement and all applicable orders of the Division; and (d) that, upon the basis of the foregoing admitted violations, within 15 days after service upon it of this order of suspension, it will pay to the following Code member producers, sums aggregating Five Thousand Eight Hundred Thirty-four Dollars and Eighty Cents ($5,834.80) as follows:

F. J. Adams	$617.10
G. C. Blose	50.25
Ben Desantes	143.40
R. W. Duncan	2.70
Ira W. Foster	48.00
C. H. Gathers	53.70
Loyal T. Henderson	191.70
O. E. Houser	178.20
C. F. Miller	140.70
Ernest Moore	203.40
Pence Coal Company	1,004.40
Priester Brothers	70.20
Scott L. Rearick	466.80
T. R. Reddinger	442.20
C. G. Schick	113.10
Charles F. Shumaker	92.10
Floyd Thomas	74.40
Ross Traister	132.90
Wadding Brothers	95.10
Frank W. Milliron	839.25
Lost Hill Coal Co	781.65
E. S. Geer & Son	95.55

It is ordered, That the registration of the Pittsburg & Shawmut Company as a distributor be and it hereby is suspended for a period of one hundred and eighty (180) days from the date of service hereof upon the defendant, and that the defendant, its officers, representatives, agents, servants, employees, attorneys and all affiliates of the defendant shall be and they hereby are prohibited from acting as a registered distributor and from receiving or accepting any discounts from the effective minimum prices, either directly or indirectly, on coal purchased by it, them or any of them during said period of suspension: *Provided, however,* That if the defendant shall not have complied with the provisions of Section 304.15 of the Rules and Regulations for the Registration of Distributors at least five (5) days prior to the expiration of said period of suspension, said suspension shall continue in full force and effect until five (5) days after the affidavit required by said § 304.15 shall have been filed with the Division.

It is further ordered, That the defendant, during such period of suspension, shall continue fully to observe, abide by, and remain in all respects subject to all pertinent and applicable provisions of the Act, the Code, the Marketing Rules and Regulations, the Rules and Regulations for the Registration of Distributors, its Distributor's Agreement, and all pertinent orders of the Director.

It is further ordered, That in the event the defendant shall hereafter violate any of its agreements set forth in said "Statement of Admissions Agreement and Consent to Entry of Order of Suspension of Registration," on file herein, this matter may be reopened and such action taken and orders entered herein as to the Director may seem just and proper under the circumstances; and jurisdiction of this matter is hereby expressly reserved for such purposes.

Dated: October 1, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7482; Filed, October 7, 1941; 10:11 a. m.]

[Docket No. A-597]

PETITION OF THE CONSUMERS' COUNSEL DIVISION FOR A REDUCTION IN THE MINIMUM PRICES OF SIZE GROUPS 6, 7, 8, AND 9 PRODUCED IN DISTRICT 4 FOR SHIPMENT TO MARKET AREAS 4, 5, AND 7 TO 21, INCLUSIVE, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER DISMISSING PETITION

The original petitioner having moved that the proceedings in the above-entitled matter be dismissed without prejudice, and there having been no opposition thereto;

Now, therefore, it is ordered, That the original petition in the above-entitled matter be dismissed without prejudice and that the proceedings in this docket be closed.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7483; Filed, October 7, 1941; 10:11 a. m.]

[Docket No. 1628-FD]

IN THE MATTER OF UNITED STATES COAL & COKE COMPANY, DEFENDANT

ORDER DISMISSING COMPLAINT

Mr. J. F. Parsons, Eolia, Kentucky, complainant herein, having requested the dismissal without prejudice of the complaint heretofore filed by him herein; and

It appearing to the Director that it is advisable that such request be granted;

It is hereby ordered, That the complaint heretofore filed herein be, and the same is, hereby dismissed without prejudice.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7484; Filed, October 7, 1941; 10:12 a. m.]

APPLICATIONS FOR REGISTRATION AS DISTRIBUTORS

An application for registration as a distributor has been filed by each of the following and is under consideration by the Director:

Name and Address	*Date application Filed*
W. Carson Adams, 729 Brown-Marx Bldg., Birmingham, Ala.	Sept. 23, 1941
John E. Dale Fuel Corp., 353 Fifth Ave., New York, N. Y.	Sept. 25, 1941

Name and Address	*Date application Filed*
Forsyth Carterville Coal Co., 806 Fullerton Bldg., St. Louis, Mo	Sept. 25, 1941
Galloway Coal Co., 306 Jefferson Ave., Memphis, Tenn	Sept. 20, 1941
Vendors Incorporated, 1208 Ford Bldg., Detroit, Mich	Sept. 22, 1941

Any district board, code member, distributor, the Consumers' Counsel, or any other interested person, who has pertinent information concerning the eligibility of any of the above-named applicants for registration as distributors under the provisions of the Bituminous Coal Act and the Rules and Regulations for the Registration of Distributors, is invited to furnish such information to the Division on or before November 3, 1941. This information should be mailed or presented to the Bituminous Coal Division, 734 15th Street NW., Washington, D. C.

Dated: October 4, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-7485; Filed, October 7, 1941; 10:12 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5. F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5. F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective October 7, 1941. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

Central Manufacturing Company, One Legion Street, Clarksville, Tennessee; Apparel; Work Shirts and Pants; 10 learners (75% of the applicable hourly minimum wage); April 7, 1942.

Signed at Washington, D. C., this 7th day of October 1941.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 41-7508; Filed, October 7, 1941; 11:36 a. m.]

CIVIL AERONAUTICS BOARD.

[Docket No. 334]

IN THE MATTER OF THE COMPENSATION FOR THE TRANSPORTATION OF MAIL BY AIRCRAFT, THE FACILITIES USED AND USEFUL THEREFOR AND THE SERVICES CONNECTED THEREWITH, OF AMERICAN AIRLINES, INC.

[Docket No. 204]

IN THE MATTER OF THE PETITION OF AMERICAN AIRLINES, INC., FOR THE DETERMINATION OF FAIR AND REASONABLE RATES OF COMPENSATION FOR THE TRANSPORTATION OF MAIL BY AIRCRAFT, THE FACILITIES USED AND USEFUL THEREFOR, AND THE SERVICES CONNECTED THEREWITH ON ROUTES NOS. 4 AND 23, UNDER SECTION 406 OF THE CIVIL AERONAUTICS ACT OF 1938, AS AMENDED

NOTICE OF ORAL ARGUMENT

The above-entitled proceeding is hereby assigned for oral argument before the Board on October 15, 1941, 10 o'clock a. m. (Eastern Standard Time) in Room 5044 Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C.

Dated Washington, D. C., October 4, 1941.

By the Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 41-7500; Filed, October 7, 1941; 10:18 a. m.]

FEDERAL POWER COMMISSION.

[Docket Nos. G-100, G-101, G-113, G-127]

CITY OF CLEVELAND, COMPLAINANT, V. HOPE NATURAL GAS COMPANY, DEFENDANT; CITY OF AKRON, COMPLAINANT, V. HOPE NATURAL GAS COMPANY, DEFENDANT; IN THE MATTER OF HOPE NATURAL GAS COMPANY; PENNSYLVANIA PUBLIC UTILITY COMMISSION, COMPLAINANT, V. HOPE NATURAL GAS COMPANY, DEFENDANT.

ORDER DENYING APPLICATION FOR SERVICE OF TRIAL EXAMINER'S REPORT AND GRANTING ORAL ARGUMENT

OCTOBER 3, 1941.

Upon application of Hope Natural Gas Company, filed September 30, 1941, requesting, as separate application, (1) that any trial examiner's report in this proceeding be served upon it, and (2) that it be granted oral argument before the Commission *en banc*;

It appearing to the Commission that:

(a) Section 19 (a) of the Natural Gas Act provides in part as follows:

> Any person, State municipality or State commission aggrieved by an order issued by the Commission in a proceeding under this Act to which such person, State, municipality, or State commission is a party may apply for a rehearing within thirty days after the issuance of such order. The application for rehearing shall set forth specifically the ground or grounds upon which such application is based. Upon such application the Commission shall have power to grant or deny rehearing or to abrogate or modify its order without further hearing * * *;

(b) Under this provision of the Act any aggrieved party, in its application for rehearing, may take exception to any or all findings of the Commission, its failure to make necessary findings, or any order or conclusions embodied in the opinion or order of the Commission;

(c) Such statutory procedure provides a direct and adequate means of excepting to any part of the Commission's order by which a party deems himself aggrieved and avoids the cumbersome and frequently futile procedure of taking exceptions to the merely advisory findings and conclusions of the examiner, many of which may not be accepted by the Commission or be incorporated in the Commission's order.

Wherefore, the Commission *orders* that:

(A) Applicant's request for service upon it of any trial examiner's report which may be made herein be and the same is hereby denied;

(B) Oral argument on the issues raised at the hearing herein be had before the Commission, *en banc*, on October 27, 1941, at 9: 45 a. m., in the Hearing Room

of the Commission, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 41-7499; Filed, October 7, 1941; 10:18 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 812-207]

IN THE MATTER OF PENNROAD CORPORATION

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 6th day of October, A. D. 1941.

An application having been duly filed by the above named applicant under and pursuant to the provisions of section 23 (c) (3) of the Investment Company Act for an order permitting the applicant to purchase not more than 125,000 shares of its common stock either on a Securities Exchange or over the counter at a price or prices not to exceed the prevailing price at which such common stock is selling on the Philadelphia Stock Exchange or the New York Curb Exchange at the time the transactions are consummated;

It is ordered, That a hearing on the matter of this application be held on October 15, 1941, at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue Northwest, Washington, D. C. On such day the hearing room clerk in Room 1102 will advise the interested parties where such hearing will be held.

It is further ordered, That Charles S. Lobingier, Esquire, or any officer or officers of the Commission designated by it for that purpose, shall preside at such hearing on such application. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to trial examiners under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the above named applicant and to any other person or persons whose participation in such proceedings may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7506; Filed, Oct. 7, 1941; 11:36 a. m.]

[File No. 70-382]

IN THE MATTER OF COLORADO CENTRAL POWER COMPANY

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 4th day of October, A. D. 1941.

Colorado Central Power Company, a subsidiary of Crescent Public Service Company, a registered holding company, having filed a declaration under section 7 of the Public Utility Holding Company Act of 1935 with regard to a reduction in the rate of interest payable by Colorado Central Power Company on $704,000 principal amount of its First Mortgage 4¼% Bonds, Series A due May 1, 1959 from the present rate of 4¼% per annum to 3¾% per annum with the consent of John Hancock Mutual Life Insurance Company, the holder of all of the said bonds; and

Said declaration having been filed on August 14, 1941 and certain amendments having been filed thereto, the last of said amendments having been filed on September 27, 1941 and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for a hearing with respect to said declaration within the period specified in said notice, or otherwise and not having ordered a hearing thereon; and

Colorado Central Power Company having requested that said declaration become effective as soon as possible; and

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers to permit said declaration to become effective and finding with respect to said declaration that the requirements of section 7 (c) of said Act are satisfied and that no adverse findings are necessary under section 7 (d) of said Act, and being satisfied that the effective date of said declaration should be advanced.

It is ordered, Pursuant to Rule U-23 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-24 that the aforesaid declaration be and it hereby is permitted to become effective forthwith.

By the Commission, Commissioner Healy dissenting for the reasons set forth in his memorandum of April 1, 1940.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-7507; Filed, October 7, 1941; 11:36 a. m.]